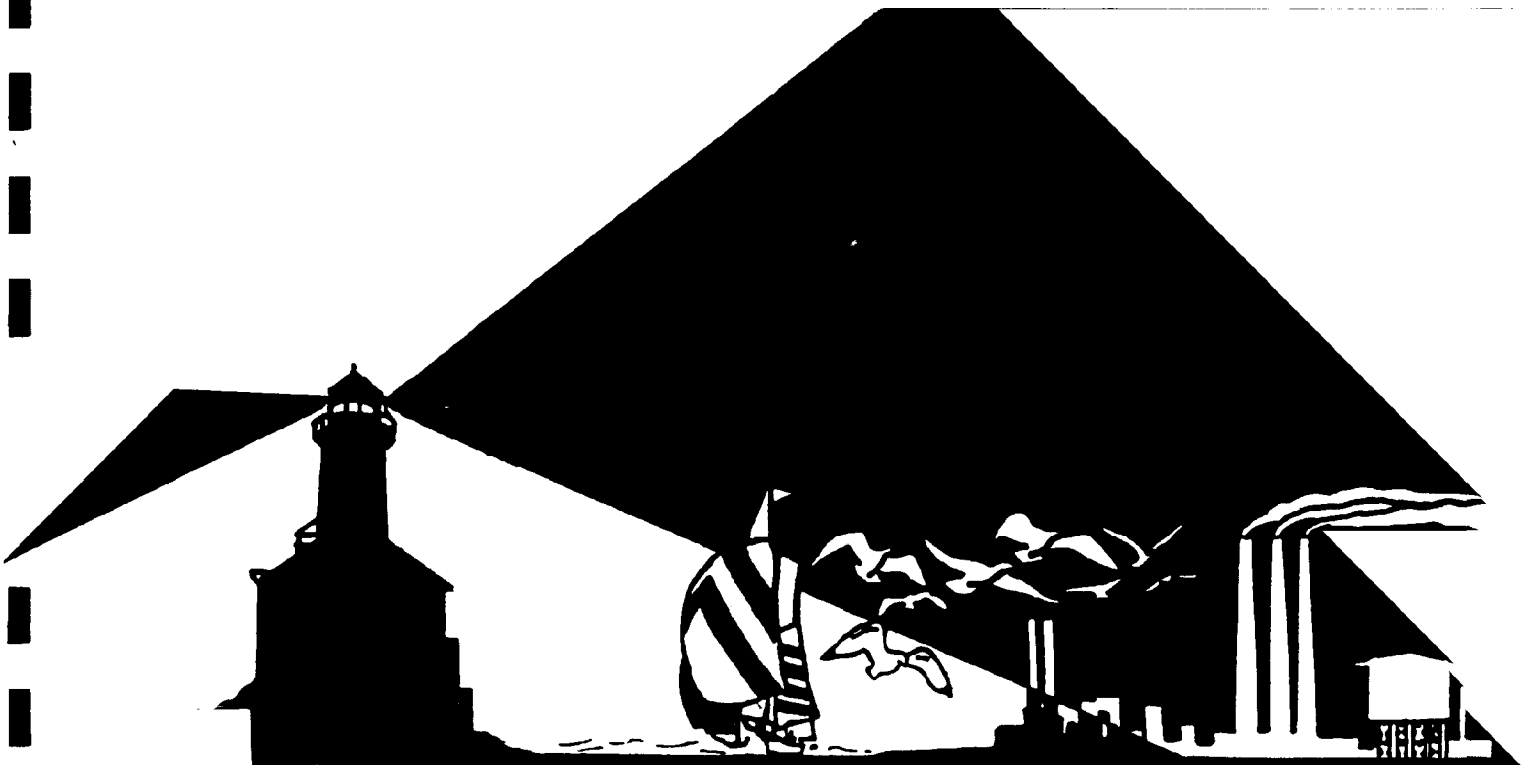


**TOWARD A MANAGEMENT PLAN
FOR INDIANA'S SHORELINE
ON LAKE MICHIGAN**



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**TOWARD A MANAGEMENT PLAN FOR
INDIANA'S SHORELINE ON LAKE MICHIGAN**

VOLUME 1

Prepared for the
INDIANA DEPARTMENT OF NATURAL RESOURCES

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Prepared by the
NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION
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TABLE OF CONTENTS

	<u>Page</u>
Introduction	i
CHAPTER 1: Results of the Public Meetings on an Indiana Shoreline Plan	1-1
Meeting Results	1-1
Advance Preparation for the Meetings	1-3
Publicity and Public Information	1-4
Schedule and Location of the Meetings	1-4
Meeting Procedures	1-5
Attendance and Participation	1-5
Whiting Meeting	1-6
Gary Meeting	1-7
Portage Meeting	1-7
Michigan City Meeting	1-8
Summary	1-9
Attachment 1: Issues Discussed in Public Meetings and Written Comments and Number of Mentions	1-10
Attachment 2: Wording of Petitions Submitted for Shoreline Plan	1-14
Attachment 3: Selected Excerpts from Shoreline Meeting Statements	1-15
Attachment 4: Our Indiana Shoreline on Lake Michigan (information brochure)	1-20
Attachment 5: Press Release and Newspaper Editorials and Articles	1-21
Attachment 6: Organizations and Agencies Represented at the Public Meetings or by Written Comments Submitted by Mail	1-38
CHAPTER 2: Summary of Federal, State and Local Statutes and Regulations Dealing with Land and Water Uses on the Indiana Shoreline of Lake Michigan	2-1
Introduction	2-1
Land Use Regulation/Lakefill & Construction	2-1
Local Land Use Regulation/General	2-10
Water Use Enforcement Issues	2-12
State Watercraft Safety Laws and Regulations	2-15
July 1985 Agreement	2-21
Public Access	2-28
Conclusion	2-31

Appendix	2-33
Draft of Porter County Wetland Ordinance	2-34
Federal/State Agreement with Coast Guard	2-43
Attorney General Opinion 80-37	2-52
Attorney General Opinion 90-8	2-57
 CHAPTER 3: An Overview of the Federal Coastal Zone Management Program and the Implications for Indiana's Participation in the Program	 3-1
Summary	3-2
Coastal Zone Management Program Overview	3-3
Indiana's CZM Program	3-4
CZM Program Requirements	3-7
Federal Consistency	3-15
Exclusion of Federally Owned Land	3-15
Funding	3-16
Two New CZM Programs	3-17
Related State/Federal Coastal Initiatives	3-18
Two Great Lakes CZM States	3-20
Conclusions	3-24
Recommendation	3-26
 Attachment 1: Coastal Zone Management Act of 1972	 3-27
 CHAPTER 4: Steps Toward an Indiana Shoreline Management Program	 4-1
Attachment 1: Governor Bayh's Letter of 1/31/92 to OCRM	4-6
Attachment 2: Governor Bayh's Letter of 1/31/92 to Congressman Visclosky	4-8
Attachment 3: Congressman Visclosky's Letter of 4/2/92 to NIRPC	4-9
Attachment 4: Excerpt from Congressional Record of 9/28/92	4-10
Attachment 5: State of Minnesota Letter of Intent	4-11
Attachment 6: State of Ohio Section 305 Grant Application	4-21
Attachment 7: State of Georgia Section 305 Grant Application	4-41

TABLE OF CONTENTS: VOLUME TWO

	<u>Page</u>
CHAPTER 5: The Indiana Lake Michigan Shoreline: State of Knowledge	5-1
Executive Summary	5-1
Acknowledgements	5-3
Environment	5-4
Hydrology	5-32
Recreation	5-51
Socioeconomic	5-70
Appendix 1: Environment	5-91
Appendix 2: Hydrology	5-124
Appendix 3: Recreation	5-140
Appendix 4: Socioeconomic	5-155

Introduction

The concept of a management policy and plan for Indiana's Lake Michigan shoreline has been discussed for many years. In the late 1970s, Indiana received program planning funds from the federal Coastal Zone Management program. A number of important technical studies resulted but the state fell short of meeting requirements for ongoing participation in the federal program.

During the 1985 session of the Indiana General Assembly, legislation was passed creating the Lake Michigan Marina Development Commission (LMMDC). Its voting members are the mayors of the lakefront cities of East Chicago, Gary, Hammond, Michigan City, Portage and Whiting. Created to spur marina development on Lake Michigan and its two navigable tributaries, Portage - Burns Waterway and Trail Creek, the LMMDC began to develop marinas using state funds for pre-construction planning, design and engineering studies and gap financing for construction. The Commission's monthly public meetings and those of its General Advisory Committee became forums for citizens demanding more public access and amenities on the shoreline.

In June, 1985, 1st District Congressman Peter J. Visclosky proposed the Marquette Project, a plan to redirect Indiana coastal resource uses. Congressman Visclosky said:

"As steel continues to be made by a reconfigured industry in smaller, more efficient and safer facilities, let the public sector join with the private to recapture -- at least initially -- a narrow strip to the north of our great industrial complex. Then, as attrition occurs naturally later in this century and the next, and as the mills age and technology changes, where sites are unused and rail yards are abandoned, let us take quick steps to reclaim them for the public... This does not mean that no new industry will locate on the lakeshore, but it does mean that we should set our priorities in a clear and definite manner... I want to begin recapturing our lakeshore for our people to use as soon as is possible, even if in some areas the recovered land is a strip so narrow it is measured in feet."

Although the Congressman's proposal was introduced with fanfare and received some praise, it was conceptual and futuristic, and not yet associated with an identifiable project or area. As a result, it was not fully explored and was soon upstaged by growing concern about rising lake levels.

In response to the high lake levels and severe erosion of the mid-1980s a Natural Resources Study Committee of the Indiana General Assembly endorsed legislation to allow the Indiana Department of Natural Resources (IDNR) to carry out a comprehensive study to determine the need for legislation to protect the shoreline, lake and dunes. Introduced in 1986 by the late Senator Ralph Potesta, the bill died in committee.

In 1986, the Indiana General Assembly passed a resolution urgently asking Congress to take "immediate action" to curb shoreline erosion. And, later that year, the General Assembly's

Interim Committee on Soil Conservation and Agriculture toured the shoreline and recommended that the IDNR be given authority to adopt rules to regulate the shoreline. No legislation ever resulted.

A year later, the IDNR contracted with Dr. William Wood of Purdue University's Great Lakes Coastal Research Laboratory to assess shoreline conditions and lake dynamics along "the shoreline and adjacent nearshore waters from the Indiana-Illinois border to the Indiana-Michigan border". In presenting his recommendations, Dr. Wood said, "It is important to recognize that these recommendations are not predicated on high lake-level conditions, but represent a suggested approach to sound coastal management." Dr. Wood proposed the establishment of a Coastal Information System (CIS), a coastal monitoring program to collect and maintain current data on the shoreline, computer modeling to predict bluff recession and shoreline change, and a beach nourishment program.

Although lake levels fell and Dr. Wood's recommendations were set aside, the Legislature authorized the IDNR to hire a Lake Michigan Specialist. Mr. Stephen E. Davis, a colleague of Dr. Wood, was selected to fill the important position.

In 1989, State Representative Charlie Brown petitioned the Natural Resources Commission to adopt a rule prohibiting watercraft within 200 feet of the Lake Michigan shoreline between Warrick Street in Gary and the Lake/Porter County line. The petition was based on dangerous conditions, resulting from "density of watercraft intermixed with bathers... aggravated by the presence of a private facility sometimes referred to as the Wells Street Beach."

In analyzing the testimony at a public hearing on the proposed rule which was held in Gary on January 2, 1990, the IDNR hearing officer, Stephen L. Lucas, concluded:

"The strongest message derived from the public hearing in Gary is that there is a compelling need to address confusing issues of regulatory jurisdiction and watercraft law enforcement along the Indiana shoreline of Lake Michigan."

In the spring of 1990, the Natural Resources Commission adopted an order deferring adoption of the proposed rule to prohibit watercraft. The NRC said:

"The Director of the Department of Natural Resources is urged to establish a master plan or other broad process to consider watercraft usage in Indiana waters adjacent to Lake Michigan."

Thus, for nearly two decades, there has been a growing recognition of the need for a management strategy, policy and plan to protect and, where possible, to reclaim Indiana's coastal zone by managing and using this environmentally sensitive area wisely. In early 1991, IDNR Director Patrick Ralston responded to the need for a shoreline plan by contracting with NIRPC for preparation of this report. For purposes of this report, the terms shoreline and coastal zone are used interchangeably.

This report, therefore, is premised on the need for a management plan for the Indiana coastal zone. It recognizes, however, the need to first compile a body of knowledge about the coastal zone and determine whether the management plan will conform to requirements of an existing federal program or be independently developed by a state-local consortium or other mechanism.

Volume one of the report consists of four chapters. The first chapter discusses statements and written submissions, solicited as a part of a series of public meetings on the future of Indiana's shoreline. Lee Botts facilitated the meetings and prepared the report. Ms. Botts has long been in the forefront of environmental policymaking as both administrator and activist.

The second chapter is a survey of federal, state and local statutes which govern Indiana's coastal zone. It was prepared by David L. Hollenbeck, an attorney in private practice in Valparaiso, Indiana, who represents several public entities including the Northwestern Indiana Regional Planning Commission (NIRPC) and the LMMDC.

The third chapter assesses the federal Coastal Zone Management program and the opportunities and constraints it offers the state of Indiana. It was prepared by Barbara Waxman, Environmental Services Coordinator NIRPC and Project Director for the LMMDC, who also served as project manager for the overall shoreline study effort.

The fourth chapter recommends steps toward the development of an Indiana shoreline management program.

The fifth chapter, which is contained in volume two, is a bibliography of existing plans and studies about Indiana's coastal zone. It was prepared by Drs. Paul J. Dubowy and Joseph T. O'Leary, Department of Forestry and Natural Resources, Purdue University.

An appendix contains a comprehensive mailing list of individuals and organizations who have asked to be kept informed on the shoreline planning process. This list is the property of the IDNR and NIRPC.

RESULTS OF THE PUBLIC MEETINGS ON AN INDIANA SHORELINE PLAN

In January and February, 1991, four public meetings were held as a first step toward development of a comprehensive plan for the Indiana shoreline of Lake Michigan. The meetings were arranged and conducted by the Northwestern Indiana Regional Planning Commission (NIRPC) under a contract with the Indiana Department of Natural Resources (IDNR).

In addition to the public meetings, NIRPC is also surveying legislation and regulation of shoreline use by the other states around Lake Michigan and reviewing reports of past shoreline studies. Results of those activities will be submitted to IDNR with this report on results of the public meetings and a proposed scope of work for development of a shoreline plan.

MEETING RESULTS

A broad range of issues was raised in the public meetings, with many viewpoints and interests represented. Attendance was good, considering the generalized purpose and the lack of a pending controversial action or decision that would stimulate a large turnout.

Although some issues could be considered different aspects of the same subject, about 50 different issues were discussed in the meetings or raised in written comments (see Attachment 1). Public access, for example, was mentioned in relation to access for fishing, swimming, boating and nature observation. Several comments that called for restriction of private development and other comments that called for recognition of private property rights are also related to public access.

The question of boating access to beaches, the need for additional public access and the need to preserve natural areas were cited more times than other topics. Several subjects were mentioned only once and some development ideas were put forward by one person.

Overall, the issue of restriction of boating access to beaches was the most frequently mentioned single topic and was the major topic in the meetings at Portage and Gary. Even here, however, a number of other topics were also raised.

Two petitions were submitted on different aspects of this subject. One petition supporting continued boating access had a total of 249 signatures on 18 sheets,. A second petition seeking more restrictions for boats at Ogden Dunes had a total of 130 signatures. Also, copies of a petition circulated in 1989 on behalf of boating access on the Miller beach were also submitted. The 1989 petitions had a total of 364 signatures. The wording of all three petitions is shown in Attachment 2.

Preservation of natural areas, either in reference to a specific location or in general, and

the need for more public access were the topics mentioned next most frequently. The so-called "Migrant Trap" at Whiting was one frequently mentioned specific preservation issue. This location adjacent to the new Hammond Marina is on property originally acquired by the Northern Indiana Public Service Commission (NIPSCO) for a generating station that was never built.

Birdwatchers, or birders as they prefer to be called, frequent the area to observe birds that rest or stop over here after following the shore of Lake Michigan in migration. Most comments on this topic were made at the meeting in Whiting but it was also mentioned at all of the other meetings. Since the public meetings, NIPSCO has contracted with bird expert Ken Brock of Indiana University Northwest to study the use of the area and the company has indicated willingness to protect its present usage.

At Michigan City, the utility company's plan to develop the Crescent dune area next to its generating station there was the chief topic. A company spokesman described the proposal for residential condominium units that had been endorsed the previous week by the city council of Michigan City.

The need for response to changing lake levels was another topic discussed at all the meetings. Most comments called for erosion control, with several persons endorsing beach nourishment as the preferred method. Two comments at meetings called for regulation of lake levels. Materials of the Great Lakes Coalition in support of levels regulation were also submitted. This organization represents riparian property owners.

Setback requirements to regulate development on the shoreline that is subject to erosion with varying lake levels were endorsed at every meeting. There was divided opinion on whether private development on the shoreline should be restricted, with some speakers urging that no more development be allowed but shore property owners speaking on behalf of private property rights.

In discussion following the formal statements, the most frequently raised question concerned enforcement authorities of the government jurisdictions along the shoreline. Several speakers suggested that there is confusion about who is responsible for enforcing boating restrictions, especially whether local municipalities or state or federal authorities are responsible for enforcing prohibitions against the presence of boats within marked areas.

Several comments were made about how restricted areas are marked and the fact that they are marked in different ways at different places. In response to questions, IDNR spokesman Stephen Davis explained how requests for permits to set out marking buoys are handled and that different procedures are followed by the federal Coast Guard and the state Department of Natural Resources.

Several suggestions were made that more enforcement of boating safety requirements and against drunkenness would be welcomed by boaters as well as shoreline residents and beach

users. There were several comments about the noise nuisance created by boats with loud motors that are operated at high speed. Some comments also included suggestions that education for boaters could help solve some problems.

The need for shoreline planning was another topic mentioned frequently, both oral and written. Questions about how the plan would be developed and a timetable also seemed to reflect interest in development of a comprehensive shoreline plan.

All the topics raised and the frequency of their mention are listed in Attachment 1. No statistical analysis would be valid because some statements concentrated on a single topic but many referred to more than one. Thus the total number of mentions is greater than the total attendance and the number of written comments received. Also, because the events were organized as public information meetings rather than public hearings, issues were raised both in formal statements and in informal discussion.

A summary description of each meeting is given below. Representative sample comments are cited in Attachment 3. Advance preparations for the meetings included consultation with representatives of shoreline interests and promotion of publicity and public information about their purpose.

ADVANCE PREPARATION FOR THE MEETINGS

Prior to the public meetings, informal exploratory discussions were held with representatives of interest groups to identify issues that should be considered for the Lake Michigan shoreline. An outline of an information brochure was distributed to every group with a request for comments. Results of these discussions were then used to develop final copy for the brochure that suggested possible topics for consideration in a shoreline plan.

The preliminary discussions took place with the following groups:

1. The Northwest Indiana Forum, representing business and industry.
2. The General Advisory Committee of the Lake Michigan Marina Development Commission, representing local government, boating, marina, and related interests.
3. Representatives of environmental and conservation groups, including sport fishing organizations.

Interests of shoreline residents were also represented among the membership of the three groups. The organizations in the groups were also invited to assist in publicizing the meetings in their publications or by other communications to members.

PUBLICITY AND PUBLIC INFORMATION

The meetings were publicized by advance press notices and by distribution of the information brochure that was also available at each meeting. The brochure (Attachment 4) stated the purpose of the meetings, listed shoreline issues and described existing shoreline responsibilities of local, state and federal agencies.

The schedule of the meetings and description of how they would be conducted was also included with invitation to participate. A separate enclosed card invited comments by mail and requested names and addresses for notification of future shoreline planning activities. The names on the returned cards and the attendance lists for the public meetings will be used for a mailing list to promote public involvement in any future planning process. A number of agencies as well as many individuals returned these cards.

The brochure was distributed by mail to selected lists maintained by NIRPC and by various local organizations to their members. Cooperating organizations included the Northwest Indiana Forum, the General Advisory Committee to the Lake Michigan Marina Development Commission, the Save the Dunes Council and the Duneland Audubon Council. The brochure was also made available to local organizations and institutions for distribution at meetings or public places such as libraries and agency offices.

Newspaper and radio reporters were present at every meeting and several news stories were carried in response to the advance press announcements to all area newspapers and radio and television stations. Several advance newspaper stories in local papers were based on an Associated Press release from Indianapolis. Other news stories were also printed following each meeting and interviews with participants were broadcast (Attachment 5). In addition, the shoreline planning process was endorsed by newspaper editorial comments.

To a complaint at Michigan City that there had been insufficient public notice of the meetings, members of the audience stated that such events were not always reported in the local newspaper. Another complaint was made about lack of notice of public meetings on a separate planning process for the Rails to Trails Proposal. Other comments were made by attendees at every meeting expressing appreciation for advance publicity and advance public information about the proposed shoreline planning process.

SCHEDULE AND LOCATION OF THE MEETINGS

The meetings were held approximately one week apart in four separate locations in different areas of the shoreline. Every meeting was held in a City Hall on a weekday evening from 7 to 9 p.m. The dates and locations of the meetings were as follows:

Jan. 23	Whiting
Jan. 29	Gary
Feb. 7	Portage
Feb. 13	Michigan City

MEETING PROCEDURES

The same format was followed at all the meetings. Stephen Davis, Lake Michigan Specialist for the IDNR, made an opening statement that explained the purpose of the public meetings and the proposed shoreline plan. He then introduced Lee Botts, who served as facilitator and moderator. She explained that statements would be limited to three minutes each in order to allow time for questions and discussions afterwards. (Longer statements were allowed in the Gary meeting because of the smaller number of persons who wished to make statements.)

Elected local officials who were present were identified as well as other persons with official status related to the shoreline such as port authority or marina directors. Names of speakers were called from the registration cards but opportunity was given for other speakers after every registrant had spoken.

It was seldom necessary to remind speakers of the time limitations because most persons honored the request for a short summary statement. Longer written statements were also invited but written statements were not required. Some exhibits, such as petitions, were also submitted. All the meetings were characterized by interested and courteous participation from the audience and interaction between officials and questioners.

ATTENDANCE AND PARTICIPATION

All four meeting were well attended by members of the public and local elected officials as well as staff of agencies with shoreline interest such as marina operators. A total of 40 organizations, agencies or institutions were represented in comments by speakers. They are listed in Attachment 6.

Representatives of industry were present at every meeting, but only one formal presentation was made on behalf of an industrial interest by the Northern Indiana Public Service Company spokesman at Michigan City. A representative of the USX Company did, however, answer questions and participate in discussion of the marina to be built by the City of Gary inside the company-owned breakwater.

Attendance at all the meetings was dominated by spokesmen for environmental, conservation, boating, sport fishing and private property interests. The overwhelming majority of participants at all meetings were white and in that respect did not reflect the racial diversity of the general area.

All the meetings were lively but orderly and most presentations were made orally. Questions from the audience and discussion followed the formal presentations in every case. Persons in the audience who had not made formal statements participated in the discussions as well as persons who had spoken, so that there was a sense that everyone who wished to had opportunity to participate.

Several written statements were submitted at the meetings and some later by mail to supplement oral statements. A total of 37 comments in writing were submitted by mail in addition to written comments received at the meetings.

Written notes were taken at each meeting by the facilitator and NIRPC and DNR staff members. All of these notes were reviewed for preparation of this report. Also, a tape recording was made of the verbal presentations and discussion but, as announced at the meetings, it was not intended to prepare a verbatim transcript. The tape recordings were also compared with the notes and the written statements submitted by mail and at the meetings. While some issues were discussed in every meeting, each session had a somewhat different emphasis, as described below.

WHITING

A total of 40 persons attended the meeting in Whiting on Jan. 23 and 22 formal oral statements were made. Mayor Thomas McDermott of Hammond did not make a formal statement but answered questions and commented at length on development of the Hammond marina in the discussion that followed.

More than half the speakers at this meeting called for preservation of natural areas on the shoreline, most of them asking for preservation of the area known as the Migrant Trap. The area has a stand of cottonwood trees used as a resting area by migrating birds. Citing recent disturbances in connection with completion of the Hammond Marina nearby, local Audubon Society members and others are campaigning for its preservation in as nearly a natural state as possible.

Several speakers expressed concern about water pollution and other changes caused by industrial use of the shoreline. Mayor McDermott commented that the contribution of industry to the area's economy must be recognized and that he believes all shoreline uses can be accommodated. He described development of the Hammond Marina as an effort to expand use of the shoreline for economic development and other community purposes.

Many of the speakers expressed their feelings about the shoreline being a special asset to the area and of its significance in their personal lives. One person displayed several drawings

and paintings of wildlife species in speaking about his appreciation for natural resources in the area. A majority of the attendees continued listening or taking part in the discussion until the meeting adjourned at 9 p.m.

GARY

The meeting at Gary on January 28 took place on a cold windy day with a weather prediction that heavy snowfall would begin in the evening. The weather may have been why the attendance of 25 persons was the least of all the meetings. A total of 10 statements were made orally.

Several persons spoke on behalf of preserving boating access to the beach at Miller, including the owner and operator of the private Wells Street beach facility and her son. Other Miller residents cited concerns about safety for swimmers and the increase in the number of boats along the shoreline. The need for enforcement of safety regulations for operators of jet skis was also cited.

Boater education and confusion about responsibility for marking boat-restricted areas was discussed. Questions were raised about whether the City of Gary had authority to mark restricted areas and how the marking is done. One person suggested that 100 foot wide "boating corridors" be created at every third street along the Miller shoreline to demarcate more clearly boating access points.

Other topics included concern about loss of high quality habitat for fish and wildlife and proposals to restrict or eliminate lakefilling in order to preserve natural shoreline. Water quality and pollution caused by stormwater runoff and overflows through the Portage-Burns Waterway were also discussed.

Gary Councilman Gardest Gillespie answered questions about the proposed marina to be developed by the City of Gary. A USX company spokesman explained that agreement has been reached concerning leasing of land for location of the marina inside the steel plant breakwater.

Councilman Gillespie also answered questions concerning upkeep of the Lake Street shoreline and said that the city is seeking ways to restore and maintain the Marquette Park beach. Several persons continued informal discussion among themselves after the meeting was adjourned at 9 p.m.

PORTAGE

A total of 56 persons signed registration cards for the February 7 meeting in Portage, and several additional persons arrived after the meeting began. Oral statements were given by 30 persons, with half of them opposing additional restrictions on boating access to the shoreline.

Nine persons called for additional boating restrictions, with both boaters and swimmers calling for better boater education and enforcement of existing restrictions. A suggestion at this meeting that boaters be allowed access to the beach at the Indiana Dunes State Park was endorsed in additional written statements submitted later.

Additional topics included preservation of natural areas, including the Migrant Trap at Whiting. Several statements called for attention to the need for erosion control or endorsed regulation of lake levels. One speaker advocated creation of a "community marine center" with extensive recreational facilities to provide better access to Lake Michigan for local residents and to attract visitors.

A representative of the Gary-Hobart Water Corporation and others spoke about the need to maintain water quality in the lake. Some speakers mentioned problems with storm water bypass of sewage treatment plants into Lake Michigan tributaries, including the Portage-Burns Waterway, as a source of pollution to the lake.

About one-third of the speakers endorsed the need for a shoreline plan. All questions from the audience were discussed before adjournment at 9 p.m. but again several persons continued lively conversations afterwards.

MICHIGAN CITY

Mayor Behler of Michigan City made opening remarks of welcome and endorsement for the shoreline plan. He stressed the need to recognize competing interests in use of the shoreline. Later Congressman Peter Visclosky and Indiana Dunes National Lakeshore Superintendent Dale Engquist also endorsed the shoreline planning process as a way to achieve coordination and resolve conflicts.

A representative of the Beverly Shores Town Council urged provision of additional parking at the Central Avenue beach to encourage use of this location and reduce pressure on other National Park Service beaches in that community.

A spokesman for the Northern Indiana Public Service Company described the company's plans for development of condominiums units, a restaurant and other facilities at the Crescent Dune area. The plan was criticized by several speakers who made two main points. One was that the area should be included in expansion of the National Lakeshore. The other was that the federal government would become liable for erosion control if the beach were donated to public use as the company had proposed.

Prevention of development in wetlands as well as the shoreline was urged by speakers in addition to preservation of the Migrant Trap at Whiting. Water quality in tributaries, fish consumption advisory notices and beach closings due to high coliform bacteria counts were cited as concerns.

Erosion control was called for both to protect private property and to protect natural features of the shoreline such as Mount Baldy. One speaker urged that a single authority be given responsibility for enforcing boating and noise restrictions.

While several speakers called for increased public access to the shoreline, one speaker stated that there is already enough public access and that private development should be encouraged. Several speakers specifically called for restriction of private development in the Crescent Dune area.

The need to resolve conflict between boating access and swimming use in the Sheridan Shores section of Michigan City was cited but conflicts between boaters and swimmers received less attention in this meeting than at Portage and Gary.

Most of the discussion in the question period concerned the Crescent Dune controversy. Several comments suggested that development of the area would either increase erosion or that the buildings of the development would be subject to erosion.

SUMMARY

Overall the need for development of a comprehensive shoreline plan appears to have been confirmed by the results of the four shoreline meetings and in additional comments received by mail. There appears to be most urgent need to resolve questions of enforcement responsibility for boating activities and to improve public understanding of where boating access is restricted at present. The participation in the meetings and the response to public information efforts suggest that a broad range of issues in addition to boating access should be addressed in a planning process for future use of the shoreline.

ATTACHMENT 1

ISSUES DISCUSSED IN PUBLIC MEETINGS AND WRITTEN COMMENTS AND NUMBER OF MENTIONS*

BOATING ACCESS, SAFETY AND ENFORCEMENT

1. Endorse continued boating access to beaches (29)**
2. Endorse more boating restrictions on beaches to protect swimmers (21)**
3. Need for better marking system/public information for restricted areas (6)
4. Need for more enforcement of boating restrictions (9)
5. Need for more boater education on safety (6)
6. Need for more enforcement on boating violations for noise, speed or drunkenness (8)
7. Need for clarification of jurisdictional authority/proposal for single enforcement authority (6)
8. Open State Park Beach to boating access (3)
9. Provide comfort stations and litter baskets for boaters (3)
10. Need for safe haven for small boats in emergencies (4)

PUBLIC ACCESS, PRESERVATION AND DEVELOPMENT

11. Need for more public access to shoreline (28)
12. Restrict public access to shoreline (2)
13. Increase public access for fishing (5)
14. Increase free public access at marinas (3)
15. Develop additional marinas (1)
16. Restrict marina development (1)
17. Use/lease industrial land to increase public access (3)

- 18. Protection/recognition of private property rights (4)
- 19. Preserve natural areas (34)
- 20. Preserve Migrant Trap at Whiting (13)
- 21. Develop Crescent Dune (2)
- 22. Prevent Crescent Dune development (12)
- 23. Concern about public liability for erosion control if beach is given to National Park Service by NIPSCO (4)
- 24. Prevent private/industrial development on shoreline (5)
- 25. Restrict lakefill (5)

EROSION CONTROL

- 26. Endorse setback regulations (8)
- 27. Call for regulation of lake levels (3)
- 28. Need for erosion control (9)
- 29. Endorsement for beach nourishment (7)

WATER QUALITY, POLLUTION AND LAND USE

- 30. Concerns about water quality and pollution (11)
- 31. Concerns about wetlands, stormwater runoff and sediment from tributaries (4)
- 32. Prohibit/regulate off-road recreational vehicles (2)

SHORELINE PLANNING

- 33. Endorsement of planning process/shoreline plan (24)
- 34. Oppose shoreline planning (2)

- 35. Suggest coordination between Calumet Area Remedial Action Plan and shoreline plan (1)
- 36. Urge coordinated planning among jurisdictions (5)
- 37. Develop shoreline as tourist attraction (4)
- 38. Seek Build Indiana funds for shoreline development (2)

SPECIFIC PROJECT PROPOSALS

- 39. Restore Lake Street and Marquette Park areas (3)
- 40. Establish 100 foot wide boating access corridors at every third street on Miller Beach (1)
- 41. Increase parking access to Central Avenue Beach National Lakeshore in Beverly Shores (1)
- 42. Establish a new fish hatchery in Wolf Lake (1)
- 43. Protect submerged cultural resources (1)
- 44. Create a greenway connection to Illinois shoreline (1)
- 45. Cover National Lakeshore parking lots with asphalt (1)
- 46. Pay cost of shoreline improvements locally (1)
- 47. Allow Hovercraft access for shuttle/cruise operations (1)
- 48. Add spur tours in Lake and Porter Counties to Lake Michigan Circle Tour (1)
- 49. Allow development of a hotel/conference center on lakeshore (2)
- 50. Add bikeways and trails for public access (1)
- 51. Allow fishing access to west breakwater at Port of Indiana (2)

PUBLIC PARTICIPATION

- 52. Complaint about lack of notice of public meetings (1)

- 53. Complaint about lack of public notice for Rails to Trails plan (1)
- 54. Concern about late issuance of brochure prior to first meeting (1)
- 55. Single permit process proposed for efficiency and to increase public participation (1)

* The number of mentions of issues is greater than the number of participants in meetings and written comments received because many comments concerned more than one issue. No statistical analysis of these numbers would be valid.

** These numbers are for statements in person or by mail. See Attachment 2 for wording of petitions also submitted for and against boating access as noted in text of report.

ATTACHMENT 2

WORDING OF PETITIONS SUBMITTED FOR SHORELINE PLAN

1. PETITION TO MAINTAIN BOATING ACCESS AT MILLER BEACH

A total of 18 pages with 269 signatures

TO: NIRPC-SHORELINE PLAN

To Whom It May Concern:

As homeowners, boat owners, state taxpayers, marina users, we want to be able to use the shoreline and have access to beaches that are now available to us. We do not want to lose the right to have easy access from the lake to facilities for food, washrooms, pay telephones and emergency assistance.

We do not want to change the laws that affect our rights of access to the beach, in the Miller Beach area, from Montgomery Street to County Line Road.

2. PETITION TO PROHIBIT BOATS ON HALF OF BEACH AT OGDEN DUNES

Five pages submitted with total of 85 signatures.

Since swimmers make up at least half of the Ogden Dunes population, we, the undersigned, want half of the Ogden Dunes beach designated "No Boats".

3. 1989 PETITION TO MAINTAIN BOATING ACCESS AT MILLER BEACH

Copies of a petition to maintain boating access in Miller Beach area that was circulated in late 1989. A total of 27 pages with 364 signatures.

ATTACHMENT 3

SELECTED EXCERPTS FROM SHORELINE MEETING STATEMENTS

1. "I hope the areas in question are preserved, studied and appreciated as unique and naturally successful ecosystems...If anything is to be developed we must consider the negative results of the actions we take...I am concerned with...the natural filtering system of the wetlands." Porter.
2. "I do agree that there should be some type of a management plan put into effect for the Indiana shore of Lake Michigan...The driving force for a plan is the need for safer enforceable regulations concerning uses and abuses...The State Park should specify a mile or so of beach for a boat'in beach..." Dune Acres.
3. "I want to speak on behalf of protecting boaters' rights to park on the beach in Miller... I purchased my home in part because I want to access my boat safely from my home for fishing and general recreation. One exception to my position deals with jet skis. They are becoming a problem and special areas should be designated for their use." Gary.
4. "Indiana needs a comprehensive lakeshore management plan. I am glad to see the Indiana Department of Natural Resources and NIRPC working toward a full scale study of shoreline issues." Highland.
5. "...it is important that there be preserve (sic) in Hammond a natural area that is on the lakeshore." Hammond.
6. "...more and better fishing sites for shore fishermen. The Jeorse Park isn't safe for small children or elderly and the port is too high from the water." Merrillville.
7. "Boats should be allowed to anchor anywhere they please, except to interfere with harbor access or shipping lanes." Morocco.
8. "Local municipalities and users should pay for shoreline improvements...it seems that something is viewed as far more valuable and more respected when one pays for it out of one's pocket...it is imperative that all people have equal access to the shoreline." Hammond.
9. "All remaining areas of shoreline should be devoted to low-impact recreation...No industrial or residential development should be allowed directly on the shoreline. Industry and residential developers can utilize inland locations but beach users obviously cannot." Hobart.
10. "I am definitely in favor of having boats along the Ogden Dunes shore...There is much greater danger of drowning in the lake than being struck by a boat and being injured." Ogden Dunes.

11. "My main concern is that government gets into planning to fix what isn't broken... A few good enforcement rules on the use of the lakeshore, concurrent jurisdiction between state, county and city governments, enough manpower (personpower) to enforce these sensible rules...understanding of the ebb and flow of lake levels and we will have the best use of a unique natural resource that will accommodate just about everyone." Gary.
12. "Priority...long term goal of returning the lakeshore to its original state, including where possible, restoration of natural areas, removal of lakefills, generous setback laws and cleaner industrial and citizen use." Schererville.
13. "No residential, commercial or industrial development on the shoreline. Erosion is big problem. Keep marinas out of Lake Michigan. Stress water quality, especially no wastewaters from industry." Portage.
14. "There should be private rights first... Land should be sold to whoever has the money. Boating safety could be one of education...The environmentalists would make all of Indiana a park if they thought they could. Enough is enough." Valparaiso.
15. "Human needs before economics for a change." East Chicago.
16. "The Pottawatomie Audubon Society advocates that all undeveloped Indiana shoreline stay undeveloped and that private development occur only on existing industrial and commercial sites." LaPorte.
17. "I and my friends and family would be very upset if they ban boats from the beach." Hobart.
18. "There are not enough public access locations to beaches and there are too many problems at existing beaches which has caused me to quit going there." Lake Station.
19. "Identify safe swimming areas. Profit from State of Michigan experience in making setback rules/development...Push sand nourishment program." Ogden Dunes.
20. "Acquisition of Crescent Dune before planned destruction by NIPSCO is vital." Beverly Shores.
21. "Public/private partnership (is needed) in preserving beach and shore areas." Dune Acres.
22. "Save the Migrant Trip from destruction. It's for the birds." Hammond.
23. "My experience supports the proposition that the safety of swimmers is not compromised by off-the-beach operation of nonmotorized sailing craft...I have never been involved in an incident causing bodily injury or damage to someone else's property." Ogden Dunes.

24. "We are bathers and firmly believe that swimmers and boaters do NOT mix...Mixing the two together is an accident waiting to happen." Ogden Dunes.

25. "The impact of the marina and its related projects has yet to be absorbed in the small communities of Robertsdale and Whiting...If there is a legacy for the Mayor of Hammond, NIPSCO, and the IDNR, let it be a Bird Sanctuary on Hammond's lakefront. Let us leave something for the next generation of people and support all wildlife species." Whiting.

26. "Access to Lake Michigan has to be parceled out so that the various uses are accommodated--whether it be marina use (for small and large boats), people who want to swim and bathe, whether they come by car or boat, as well as small boats that start out from the beach and areas just for people who like to see just plain beach without any activity." Michigan City.

27. "Free access for boaters and beach users...free access for hunting and fishing on Lake Michigan...free boat ramp." Whiting.

28. "Please save the Migrant Trap." Whiting.

29. "After heavy rains last summer the beaches at Ogden Dunes and the Indiana Dunes National Lakeshore had to be closed because of high bacterial count...This should not happen if rain water was not being run into the sanitary sewers. Portage and other communities need to enforce their sanitary code." Ogden Dunes.

30. "There is a severe problem with power-boaters, most of whom seem to be active alcoholics, dumping garbage in the lake, etc." Portage.

31. "Boaters in this area follow the boating laws when nearing the shore. We have had no injuries due to boaters along this shore line...We do not need restrictions on motor boats, wind surfers, or hobie cats. The beach is for fun, do not make it a swimmers only beach." Ogden Dunes.

32. "No more landfills for industrial expansion. No marinas in the lake or lakeshore -- all should be inland with access to the lake...Leave the lake and shoreline as close as possible to its natural condition. Man tries to change everything and it usually ends up causing more problems." Michigan City.

33. "I strongly recommend...lakefill bi-annually, to increase our shoreline and prevent erosions which are caused by increased lake levels...This program would not only provide adequate bathing facilities but would stabilize/increase property values in the entire area." Portage.

34. "Fishing access should be considered on all breakwaters including the west breakwall at Port of Indiana. Boat in beaches should be set aside like the Wells Street beach and west of Lake Street and west of the Port of Indiana and at the Black Ditch and Crescent Dune." Chesterton.

35. "We see banning boat access to Ogden Dunes (and other) beach areas as a necessary step towards fair and equitable use of the lake. A boater has the advantage of mobility and has access to the entire lake." Ogden Dunes.

36. "The (Save the Dunes) Council believes the Lake Michigan fill law, especially the amendment that was designed to accommodate the discredited 'Toxic Island' project, violates the public trust doctrine, and conflicts with the public understanding of the purposes to which our public resources are put." Michigan City.

37. "In 1989, there were 26 incidents of beach closings along the Indiana shoreline due to contaminated water...More needs to be done to solve this problem and protect public health." Michigan City.

38. "Many of us are here tonight to oppose State Representative Charlie Brown's proposal #89-170L prohibiting water craft west of County Line Road to Warwick Street. Mr. Brown does not own the beachfront, and neither does Mr. Crump." Portage.

39. "As far as Wells Street beach is concerned, if swimmers do not want to be with boaters, there is plenty of beach to the east of Wells Street in the National Lakeshore. No boats are allowed for several miles of beach." Hobart.

40. "The Remedial Action Plan and the Shoreline Plan should be coordinated and there should be as much concern about drinking water and healthy fish as about beaches." Whiting.

41. "I speak for the species that cannot speak for themselves--the birds, the animals, and plant life. We must save the Migrant Trap for them." Whiting.

42. "A cooperative effort is needed all along the lakefront to satisfy all needs and users. IDNR should provide the leadership." Hammond.

43. "As a pleasure boater, I have not been aware of problems between boaters and swimmers." Gary.

44. "Most boaters are aware of boating and safety rules. Enforcement of existing rules will solve the problems" Gary.

45. "A license to drive a boat should be required just as a license is required to drive a car." Portage.

46. "Recreational use of the shoreline continues to grow as Illinois residents come here in increasing numbers...Virtually every public beach parking lot is full before noon on nice summer days and many are turned away...We are heavily promoting tourism on the lakeshore but what will happen when people become discouraged because our existing beach areas are not large enough to accommodate all the visitors?" Hobart.

47. "Preserve what we have left for the good of the public and for public use...Clear up misperceptions about where and where not boaters can go and clarify jurisdictions. Look at model shore plans from other areas." Ogden Dunes.

48. "A community boating center can serve residents and visitors alike and use the shore as an economic resource...Public access should be linked to every kind of shore development." Merrillville.

49. "We should maximize the possibilities for every use of the shoreline." Gary.

ATTACHMENT 4

1-20

NEWS

NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION
8149 KENNEDY AVE. HIGHLAND, INDIANA 46322 / phone 923-1060

FOR IMMEDIATE RELEASE

CONTACT PERSON: Barbara Waxman
(219) 923-1060
(312) 731-2646

Planning for the future is the subject of four public meetings in January and February to solicit opinions on the many, and sometimes competing uses, of Indiana's 45 mile Lake Michigan shoreline.

The meetings will take place from 7 to 9 p.m. at Whiting City Hall on January 23rd, Gary City Hall on January 29th, Portage City Hall on February 7th, and City Hall in Michigan City on February 13th.

The Northwestern Indiana Regional Planning Commission (NIRPC) will conduct the meetings under a contract with the Indiana Department of Natural Resources (IDNR) as part of the first phase in development of a shoreline plan. The preliminary study will also include an inventory of past studies and plans, a review of existing laws and regulations, and an assessment of the advantages and disadvantages of Indiana's participation in the federal Coastal Zone Management Program.

Ms. Barbara Waxman, Staff Planner at NIRPC, says that citizens will be asked to address a wide range of shoreline questions: "Are there enough public beaches, boat launch ramps, or public access points to the shore? Are more marinas needed? Where should lodging or other commercial facilities be built on the shore? How can safety be improved for commercial and

recreational navigation? What uses are appropriate for shoreline land that industry no longer needs?"

Mr. Stephen E. Davis, Lake Michigan specialist for the IDNR, said that "increased attention to shoreline issues is due to a directive from the Indiana Natural Resources Commission calling for a master plan to consider growing conflicts among shoreline users."

Construction of new marinas, changing industrial needs, and growing demand for public access to beaches and the lake, require agreement on how to meet many different needs along the water's edge, according to NIRPC.

Ms. Lee Botts consultant to NIRPC, will serve as facilitator for the meetings. Speakers will be asked to summarize their comments in three minute oral statements. Written comments can be submitted at the meetings or by mail to: Shoreline Plan, NIRPC, 8149 Kennedy Avenue, Highland, Indiana, 46322.

EDITORIALS

Shoreline

Future of major resource is everyone's concern

One of the major complaints of those opposed to the recent National Lakeshore Enhancement and Expansion Bill is that they were not told about the pending legislation and had no chance to respond to it.

That should not be the case with a pre-study being conducted by the Northwest Indiana Regional Planning Commission to identify important issues and questions that must be answered before a shoreline plan is formulated.

These issues include public access to boating, beaches, fishing and bird watching; industry; marinas; navigation and ports; and water level fluctuations. They are issues which touch almost everyone living or working near the shoreline.

The Lake Michigan shoreline is as important and as unique as the Grand Canyon, Yosemite, the Badlands, Niagara Falls or any other national wonder which comes to mind. The difference is that the fragile shoreline is surrounded by growing towns and cities and a highly developed industrial complex.

It is its own worst enemy. Lake Michigan, which created it, also has helped create the vast industrial and civic complex which thrives along its shore.

While the shoreline is part of Indiana, we cannot hoard it. Just as the other natural wonders in the United States, it must be protected and made available to others who wish to be rejuvenated by its splendor.

It also must be protected because it is essential in the ecological makeup of Northwest Indiana. The shoreline is the habitat of innumerable species of animals and insects. Its flora includes plants which are found nowhere else in the world. The wetlands surrounding it aid in water purification.

Yet the industry and towns bordering it provide livelihood and economic muscle for not only Northwest Indiana but the state and nation.

For these reasons the extent of protection and who should provide it will be a key issue. It is important the planning commission receives as much information as possible from various groups.

Four public meetings are slated with the first Jan. 23 in the Whiting City Council Chambers. The Vidette-Messenger will publicize each meeting and report on the discussions and suggestions.

There can be no complaints in the spring that "we weren't informed."

Tuesday Dec. 4, 1990

The Vidette-Messenger

State surveying public about uses of shoreline

PORTAGE, Ind. (AP) — A series of public meetings will begin next month to solicit opinions on the many, sometimes competing uses of Indiana's Lake Michigan shoreline.

Four meetings will be held between mid-January and mid-February in Michigan City, Gary, Whiting and another city, Lee Botts, a consultant to the Northwest Indiana Regional Planning Commission who will facilitate the meetings, said Saturday.

"We expect to get much more sense about what the issues for the shoreline are," she said in a telephone interview. "Is there enough public access to the beach? Where should new industry be located? Should new private development be

permitted on the beach?"

For instance, Hammond and Michigan City and other communities are developing new marinas which will create much more boat traffic, she said. "There's concern about safety in these areas for the swimmers," she said.

Some of the other shoreline issues to be considered are protection of wildlife habitats and private property, public access to bird-watching areas, tourism, and fluctuations in water levels, Botts said.

The public meetings represent a first step in a preliminary study for a shoreline management plan. Such a plan was recommended by the General Assembly earlier this year for 45 miles of shoreline now experi-

encing rapid change.

The preliminary study also will include an inventory of existing studies and plans; an assessment of the advantages and disadvantages associated with Indiana's participation in a coastal zone management plan; a report identifying conflicting or inadequate laws and regulations; and the formation of a committee to prepare the development plan.

Botts said the planning commission has received a \$38,000 contract from the Indiana Department of Natural Resources to hold the meetings. Once the meetings are over, area legislators will request additional state funding for further development of the shoreline plan, she said.

12/30/90

Region

Post-Tribune

Friday

December 11, 1980

B

Meetings weigh lake's uses

5 sessions will study shoreline development

The Associated Press

PORTAGE — A series of public meetings will begin next month to solicit opinions on the many, sometimes competing uses of Indiana's Lake Michigan shoreline.

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NIRPC does study for Lake Michigan shore

By PHIL WIELAND
Times Staff Writer

With growing use and competition for space along the 45-mile Lake Michigan shoreline in Indiana, the state is interested in developing a comprehensive, coordinated plan to eliminate problems and provide improved public access.

Toward that goal, the Northwestern Indiana Regional Planning Commission will hold a series of public meetings as part of a preliminary study for the development of a plan for the Indiana Department of Natural Resources.

"This is a study to do a study," said Barbara Waxman, project director for the Lake Michigan Marina Development Commission. "We will gather information so that once they do the study they will have the data to guide them."

Waxman said each of the entities occupying the shoreline — communities, industries, etc. — will be contacted about their plans for use of the shore.

She also plans to look into the benefits of the federal coastal zone management program. Indiana is one of only five coastal states not involved in the program, which offers guidance and funding for shoreline activities.

Opening of the Hammond marina this year will add about 1,000 more

recreational boaters to the lakefront. Waxman said problems already have arisen from boaters coming too close to swimmers, commercial boaters competing with recreational boaters, boaters complaining of the lack of shore anchorage and other hazards.

"The shoreline is so intensely used that, unless we develop a plan, the problems will increase," she said. "We are really interested in how the public feels about the shoreline. There is a tremendous recognition in Northwest Indiana that the shoreline is important and several things have happened that make this important."

The modernization of the steel industry is freeing up more land for new use. Also, the continued marina development will increase recreational boating, creating additional concern for safety, boater education and the environment, she said.

The public meetings will be held Jan. 23 at Whiting city hall, Jan. 29 at Gary city hall, Feb. 7 at Portage city hall and Feb. 13 at Michigan City city hall.

All the meetings start at 7 p.m., and speakers will be allowed three minutes. A question and answer period will follow the speakers' presentations.

In addition to the public meetings, the planning commission has hired Purdue University professors Joseph O'Leary and Paul Dubowy to gather information on the available literature to help with the plan, and lawyer David Hollenbeck to review the existing laws governing shoreline use.

Environmental activist Lee Botts has been hired as an advisor for the study and will serve as moderator for the public meetings. The NIRPC is doing the study under a \$38,000 contract with the IDNR.

"We want to make sure this incredible resource is fully but carefully used by all that want to use it," Waxman said.

"We want to accommodate public access, which has always been difficult. We hope to improve access and public amenities so people can enjoy the beauty of the lake."

1/11/91
The Times

Planned hearings will intensify spotlight on lake's shoreline

By Rich James

Staff writer

The future of Indiana's Lake Michigan shoreline — a 45-mile recreational and industrial jewel — will be the subject of four public hearings during the next month as the state begins developing a shoreline management plan.

The Northwestern Indiana Regional Planning Commission (NIRPC), under a contract with the Indiana Department of Natural Resources (DNR), will engineer the first phase of the study, with results due by late spring.

Stephen E. Davis, a Lake Michigan specialist with DNR, said the DNR last year called for development of a master plan "to consider growing conflicts among shoreline users."

The hearings are set for Whiting City Hall Jan. 23, Gary City Hall Jan. 29, Portage City Hall Feb. 7

and Michigan City City Hall Feb. 13. Each session is from 7 to 9 p.m.

Barbara Waxman, a NIRPC planner heading the project, said construction of new marinas, changing industrial needs and growing demand for public access to beaches and the lake are among the issues that prompted the study.

Waxman said, "Are there enough public beaches, boat launch ramps or public access points to the shore? Are more marinas needed? Where should lodging or other commercial facilities be built on the shore? How can safety be improved for commercial and recreational navigation? What uses are appropriate for shoreline land that industry no longer needs?"

There has been considerable public attention on the shoreline since the Indiana General Assembly created the Lake Michigan Marina Development Commission in 1985.

That has led to the opening of a

marina in East Chicago with another to open in Hammond this spring. Gary and Portage are planning marinas and Michigan City is working on expansion of its facility.

Gary Mayor Thomas V. Barnes' plan to build casinos on USS Gary Works property on the lakeshore has focused attention on land industry no longer is using.

Should the state not legalize casinos, an alternate Barnes plan is for construction of a theme park/marina combination. Even with casinos, Gary intends to pursue marina development.

Those attending the public sessions will be asked to summarize their comments in three-minute statements while submitting more extensive written comments.

Comments also can be mailed to NIRPC, 8149 Kennedy Ave., Highland, Ind. 46322.

Post-Tribune 1/17/91



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EDITORIALS

Lake Michigan needs your help

The issue: Reclaiming Indiana's Lake Michigan shoreline
Our opinion: Residents need to make their opinions heard

People often lament the use to which we've put the Lake Michigan shoreline in Indiana.

Historically, the shore was given over to heavy industrial use. The pristine parks were left for Chicago.

All that is changing as more and more land along the lake in Indiana is being reclaimed for public use. A plan is in formative stages that will help govern what is done with the lakeshore in the future.

The Northwestern Indiana Regional Planning Commission begins a series of hearings today providing the public input to a comprehensive plan being developed by the state.

The hearing will be held at 7 p.m. at Whiting City Hall. Other hearings will be held at 7 p.m. Jan. 29 at Gary City Hall, Feb. 7 at Portage City Hall and Feb. 13 at

Michigan City Hall.

We urge residents to attend the hearings and present their ideas on what they'd like to see done to improve public access to the lake.

A series of questions needs addressing. For instance, are there enough boat launch ramps? Should new industrial uses along the lake be allowed? Should private residential development be allowed?

The hearings are important in deciding the future of Indiana's 45-mile Lake Michigan shoreline. Since public officials are asking, we think it is imperative citizens take time to voice their opinions.

If no one speaks up, the bureaucrats will make the decisions, and we'll be forced to live with lakeshore development that may not match the wishes of people living in the area.

1/23/91
In an editorial published Tuesday, The Times urged residents to attend one in a series of hearings being held to gain input for a plan for future development of Lake Michigan's shoreline in Indiana. It was incorrectly reported that a hearing would be

held Tuesday.

A hearing will be held at 7 tonight at Whiting City Hall. Other hearings are scheduled for 7 p.m. Jan. 29 at Gary City Hall, Feb. 7 at Portage City Hall and Feb. 13 at Michigan City Hall.

Shore major focus

by Susan A. Emery
The Vidette-Messenger

PORTAGE — Northwest Indiana residents will get a chance today to discuss uses for the Lake Michigan shoreline.

The first of a series of four public meetings is scheduled to be conducted at 7 p.m. at the Whiting City Hall, 1443 119th St.

The 45 miles of shoreline are rapidly changing and have been claimed by many groups for their needs. Marina owners and developers, boaters, environmentalists and industry people have been especially vocal in their demands.

In order to accommodate these groups, the development of a shoreline management plan was recommended by the General Assembly's Natural Resources Commission last year. The shoreline planning process includes identifying issues, establishing goals, proposing alternatives, reaching agreement, developing strategy and implementing the plan.

Before the plan can be developed, a preliminary study will be conducted by the Northwestern Indiana Regional Planning Commission. The public meetings are the first step in the pre-study.

Lee Botts, NIRPC consultant, will act as facilitator for the meetings. Botts has been instrumental in developing the pre-study, which includes an inventory of existing studies and plans, an assessment of the advantages and disadvantages of Indiana's participation in the Coastal Zone Management Plan, a report identifying conflicting or inadequate laws and regulations, and the formation of a committee to prepare the plan.

The meetings will help NIRPC decide whether existing laws and regulations are adequate, and gain input to help make the most efficient use of the shoreline.

Botts outlined a list of several issues which were intended to stimulate public awareness and thinking on the lakeshore. She maintains although the meetings are being conducted to determine and balance groups' concerns, discussion should focus on the issues which have been identified.

Issues include public access to boating, beaches and fishing; industry; marinas; navigation and ports; water level fluctuations; protection of wildlife and private property; handicapped access; tourism; and the responsibilities and jurisdiction of different shoreline agencies.

11/23/91
VIDETTE-MESSENGER

Lake Michigan

Planning needs to start now

As Northwest Indiana awakens to the economic potential of its Lake Michigan shoreline, planning for its use becomes crucial. It would be horrible — both for the sake of appearance and of the environment — if 20 years from now the lakeshore from Whiting to Michigan City resembled the U.S. 30 corridor through Lake County.

Things are finally getting under way to create a master plan for future shoreline use, under the direction of the Indiana Department of Natural Resources (DNR). A growing conflict among those wanting to use the shoreline triggered the state's concern.

Public comment is the first step. People interested in what happens to the area's most valuable natural resource should take the time and make the effort to speak up in an informed way.

Among issues that need to be settled are:

- How much public access should there be? What should be done when public and private rights clash?
- Should new industrial or residential development be allowed on the lake and if so where?
- What should be done with land that industry no longer needs? Could old waste disposal sites be used for something if they are cleaned up? If so, what?
- What is the best way to assure boating safety on the lake? How should increased boat traffic be handled?
- How many more marinas are needed? Where should they be? How will public access be determined?
- How much commercial development should be allowed and where?
- How should the shoreline be protected from erosion and other environmental disasters; where should wildlife habitat and natural areas be preserved?

The DNR has asked the Northwestern Indiana Regional Planning Commission (NIRPC) to conduct public hearings to get a feel for what the people want. The first one is today from 7-9 p.m. at Whiting City Hall. Others will held at the same time Tuesday at Gary City Hall; on Feb. 7 at Portage City Hall; and on Feb. 13 at Michigan City City Hall.

People also can send written suggestions to Shoreline Plan, NIRPC, 8149 Kennedy Ave., Highland, IN 46322.

Now is the time for citizens to ensure that the shoreline is recouped as much as possible and developed responsibly.

Post-Tribune 1/23/91

Shore input given

by Susan A. Emery
The Vidette-Messenger

WHITING — Local residents received the opportunity Wednesday to help decide the future of the Lake Michigan shoreline.

A public meeting at Whiting City Hall sponsored by the Northwestern Indiana Regional Planning Commission was conducted here to help NIRPC and the state Department of Natural Resources determine whether existing laws and regulations are adequate and identify questions that should be addressed as use of the shoreline increases.

About 20 residents each made three-minute presentations on the identified issues they felt to be most important. The majority of the speakers were concerned with public access to beaches, boating and fishing; boat and water safety regulations; the environment; and the limitation of industrial use.

"We need boat access to beach areas and boating safety classes should be mandatory," Hammond boat owner Dave Bloom said.

"The shoreline must be saved as much as possible in its natural state. We've had too much of a blacktop mentality," Cedar Lake resident Barbara Dodge said.

"Public safety along the shoreline should be a priority. It should be public land with free access and support all wildlife species," Carolyn Marsh of Whiting said.

"For safety sake there should be more public launching ramps," said Robert Metnick of Whiting.

"We should think before we take any more away from the animal and plant life that need it so desperately," Dorothy Potuck of Whiting said.

Although NIRPC and the DNR are currently working on the shoreline plan, local agencies must play a key role in its formation.

"We need a multi-jurisdictional task force with the tourism department and the state highway department. It's important that we approach this (plan) in an all-encompassing manner," former Lake Council member George VanTil of Highland said.

Hammond Mayor Thomas M. McDermott answered questions from the public during the discussion session which followed the presentations. While advocating the environment, McDermott defended industry which has supported the area.

"Industry has provided us with a great standard of living for a number of years. We need to do the best we can to work with them and encourage them to keep our environment clean," he said.

Lee Botts, NIRPC consultant, was facilitator at the meeting. Botts has been working on a pre-study for a shoreline management plan. The series of four public meetings is the first step in the pre-study.

"The purpose is to try and give everyone a chance to speak. Whether or not there is a formal planning process to develop a shoreline management plan depends on these meetings," she said, adding development of the plan was not mandatory.

The next public meeting will be conducted at 7 p.m. Tuesday at Gary City Hall, 401 Broadway. Subsequent meetings will take place at 7 p.m. Feb. 7 at Portage City Hall; and at 7 p.m. Feb. 13 at the Michigan City City Hall.

VIDETTE-MESSENGER - 1/24/91

Marina advisors debate shoreline plan

By Courtney Van Lopik

In the speediest meeting of the General Advisory Committee (GAC) to take the Lake Michigan Marina Development Commission (LMMDC), Chairman Mel Griem told about a survey of several hundred to 1,000 boaters who were asked what they think about what's being done in Indiana.

The surveyor was to appear at the January meeting, but was unable to come, so will be on the March agenda. According to the survey, boaters are concerned most about dirt in the water and air in Indiana, and are confused about the boat tax.

Griem told the advisors that Barbara Waxman, Project Director Lee Botts, who is under contract with Northwestern Indiana Regional Plan Commission (NIRPC) to facilitate four public meetings as a part of the shoreline planning process, and Steve Davis, Lake Michigan expert for the Indiana Department

of Natural Resources (DNR), have begun to explore shoreline planning by meeting with the various environmental groups.

A draft of the pre-public meeting brochure was distributed to those who had not already received one and all were encouraged to attend one or more of the four scheduled meetings.

Issues and concerns raised included: need for public access; need for handicapped access; need for shoreline protection methods/devices; eliminate discussion of navigation, ports, and level fluctuation in the publication; protect natural areas/public access must be sensitive to the environment; lake level controls; hunting on the lake; private property on or near the shoreline, and wildlife preservation.

The meetings will be held from 7 to 9 p.m. on Jan. 23 at Whiting City Hall, Jan. 29 at Gary City Hall, Feb. 7 at Portage City Hall and Feb. 13 at Michigan City City Hall.

As the beginning of the process to "develop a master plan or other broad process to consider watercraft usage in Indiana waters adjacent to Lake Michigan," all pertinent information will be gathered about the shoreline.

Public comment will be sought about regulatory jurisdiction, watercraft law enforcement, and conflicts along Lake Michigan's shoreline between various users.

Those responsible for management and protection of the shoreline, according to the brochure, are "complicated by the involvement of many public agencies as well as the broad range of private interests." Government agencies include the following at the federal level: U.S. Army Corps of Engineers; U.S. Environmental Protection Agency (EPA); U.S. Fish and Wildlife Service; National Park Service, and U.S. Coast Guard. At the state level are the Indiana Department of Environmental Management and DNR. At the county level are county sheriffs, and municipal governments and their police forces, which enforce local zoning and building regulations.

According to Griem, the intent is "constructive legislation to fit with what Indiana is all about - an attractive place to work, live and visit."

At the meeting Mike Doyme reported no news on the Boat Excise Tax.

Local 1014, of the United Steelworkers of America (USWA) and the Great Lakes Sport Fishing Council were to be recommended to membership with the decision to be made by the marina commission's mayors.

The Work Program Committee will be revised at the next meeting scheduled for March 29.

The Hammond marina is scheduled to be opened April 1 and will be the third largest marina in the U.S.

PORTAGE HERALD NEWS - 1/24/91

Pictures tell story of shoreline's beauty

By PHIL WIELAND
Times Staff Writer

The Lake Michigan shoreline offers many natural wonders, and Doug Stevens hopes local officials finally are getting the picture.

Stevens, a Munster naturalist and artist, provided his own portrayals during a recent public meeting at Whiting City Hall. The meeting, sponsored by the Lake Michigan Marina Development Commission, was one of four being held to gather information for a management plan for Indiana's Lake Michigan shore.

The next meeting of the shoreline study panel is 7 tonight at Gary city hall, 401 Broadway. The meeting is open to the public.

"I'm a naturalist and I lived in Whiting for four years, so I got to know the habitat pretty well," Stevens said. "I wanted to inform the residents about the lakeshore. I felt many didn't know about the creatures and the many areas near the shore that haven't been decimated."

To illustrate his point, Stevens did watercolor portraits of prickly-pear cacti, six-lined race-runner lizards (eating ants) and ruby throated hummingbirds. Stevens said he didn't find out about the meeting until the last minute and spent three days with his paints and a pot of hot coffee putting the pictures on canvas.

"I made a special effort for the occasion," he said. "Any plans for the lake shore have to take these forms of wildlife into account. I thought it would bring it home more clearly with pictures."

Whiting City Planner Dan Botich offered a different sort of pictorial proof of the necessity of preserving the lakeshore. Botich said he took several photographs of Whiting Park after a snowfall a few weeks ago. The pictures got mixed with some he took during his Colorado snowmobiling trip early this month.

Botich told the hearing panel that, when his parents saw the pictures, it was the Whiting Park pictures they asked about. His parents live on

Chicago's East Side and used to take him to Whiting Park when he was a child, but they didn't remember its scenery, he said.

More than 50 people attended the hearing, said Barbara Waxman, project director for the marina commission.

They spoke about preserving the wooded area west of the Hammond marina that is a rest area for migrating birds.

Others spoke residential and industrial development; of the need for more public access to the lakefront, and more public boat launches; for more boat access and boater safety courses; of the importance of water quality and long-range planning; and the need for trails and using the lakefront for a variety of recreation.

Hammond Mayor Thomas McDermott said there has been a lot of criticism of plans to build marinas. He said nobody cared when the shore was littered with trash, but now that it is being cleaned up and developed for public use, some people want to preserve it "the way it was."

The Times 1/29/91

Shoreline management plan scrutinized

By Paulene Poparad
News-Dispatch correspondent

PORTAGE — Beach access for boaters, more public fishing sites, improved water quality, swimmers' safety and consistent enforcement of uniform laws have been identified as critical elements of a new Lake Michigan shoreline management plan.

A standing-room-only crowd of more than 60 people jammed Portage City Hall last night for Porter County's only hearing on the plan, sponsored by the Northwestern Indiana Regional Planning Commission and the Indiana Department of Natural Resources.

The fourth and final hearing is slated for 7 p.m. Wednesday at Michigan City City Hall.

NIRPC has a state grant to compile a needs assessment for the 45-mile shoreline; if additional money is appropriated, proposed alternatives and a draft strategy would be prepared for public comment. Specific areas being addressed are beach access, industrial uses, shore protection, private development, ports and navigational channels, and recreational marinas.

Boaters and sportfishers were in force last night as well as swimmers,

conservationists and lakefront homeowners.

Bob Van Berg, president of Salmon Unlimited, opposed trap nets and requested more free launch sites and expanded parking. Boater Bob Null drew applause when he said, "We have a lot of fun with our families and don't want to see that restrained in any way."

But Christine Koste said many boaters have the attitude that they own the lake. Commented boat owner Barbara Null, "I do not feel just because you live near the lake you have priority over it, or me."

Janet Davis of Porter Beach complained that some boaters are noisy and inconsiderate; Dan Toomey said deepwater swimmers shouldn't be forced instead to wade in shallow water in fear for their safety.

Many boaters and swimmers alike depend on Lake Michigan for their drinking water, said Charles Froman, president of Gary-Hobart Water Corp., which serves 250,000 customers in Lake and Porter counties. He said the utility has found up to 2 million fecal coliform organisms in one cup of water.

"If that isn't addressed we're apt to lose the resource we want to

protect," said Froman.

Ogden Dunes Town Councilman Frank Stimson said there will be no shoreline to manage if beach nourishment isn't undertaken. Steve Davis of the DNR said up to 500,000 cubic yards of sand to be removed from Burns Waterway may be used for Ogden Dunes beach replenishment if the sand type is compatible.

Save the Dunes Council executive director Charlotte Read said history has done a terrible job of protecting public property from private interests and suggested that only water-related development be allowed along the shoreline.

Read also said public recreational use of the 20 miles of industrially owned lakefront should be explored. She predicted people of good will can agree on the fairest way to manage conflicts among competing users.

Ben Mallonee of the Ogden Dunes Town Council explained how a twin set of buoys creating a buffer zone along that community beach has allowed swimmers and boaters to co-exist. However, some of those present criticized the buoys.

Mallonee said the town has applied for a federal buoy permit.

Davis said the DNR and others have not objected to the illegal buoys because they serve a useful purpose. Said Mallonee, "We don't think we have the answer, but it's a start."

Davis said his goal is for the Indiana shoreline to be managed as a whole taking into account all affected jurisdictions.

Chesterton Tribune.

CHESTERTON, INDIANA 46304 (USPS 130-100)

FRIDAY, FEBRUARY 8, 1991

Citizens seek public access to Lake Michigan shore

By VICKI URBANIK

Northwest Indiana residents speaking at a public forum in Portage Thursday overwhelmingly called for more public access to the Lake Michigan shoreline.

Boaters in particular said they do not want to see any more beachfront eliminated as boating accessible sites.

The forum, which drew roughly 80 people, was called to hear public input on a proposed shoreline management plan. The Northwestern Indiana Regional Planning Commission (NIRPC) and the Indiana Department of Natural Resources (DNR) hope to put together a plan to manage the many conflicting uses along Indiana's 45-mile shoreline.

Lee Botts, an environmental consultant hired to oversee the preliminary planning, said the public comments will help planners determine what policies should be enacted to address unmet needs and to resolve existing conflicts on the lake.

Barbara Waxman, a NIRPC planner, said depending on when the Indiana legislature approves the funding, the management plan should be completed within two years. Before it is finalized, another series of public meetings will be held to get input on the plan.

The concern expressed most often at the forum dealt with a lack of accessibility.

Several boaters called for more public access at the marinas, noting that state tax dollars were used to build them. Others said they strongly oppose a bill by Rep. Charlie Brown (D-Gary) to ban boats along Lake County beaches.

Barbara Null, a boater from Hobart, said the shoreline belongs to everyone, and that there needs to be better facilities for boaters.

"I don't feel that just because you live by the lake that you have any priority over me," she said.

Alice Pickford, the owner/operator of Wells Street Beach, said boaters are already restricted at numerous sites along the shore. She also said boats should not be restricted to 200 feet out in the water. Adults may be able to swim to the shore, but it is too dangerous for children to do so, she said.

Tom Serynek of Gary said he would like to see the conflicts between boaters and swimmers resolved. There are too many boating and swimming areas along the lake that are accidents waiting to happen, he said.

He also said the Indiana Dunes National Lakeshore has plans for a boat-in beach at Crescent Dune. Such plans would fall through if park expansion opponents are successful in getting the dune privately developed, he said.

A few speakers, however, said boaters should not benefit at the expense of swimmers.

Daniel Toomey of Ogden Dunes said the increased number of boats in Lake Michigan poses a danger to swimmers who go out at least five feet in the water. He said he does not think it is fair to restrict swimmers to two or three feet of water so that boaters can have more space.

Other speakers called for more consideration for the people who live along the lake.

Janet Davis of Porter Beach said many lakefront residents are concerned about the lake visitors. She noted that there have been problems with boaters and jet skis at Porter Beach. She also raised concerns about noise from boats without mufflers and about people who use alcohol and drugs while boating.

Liberty Township resident Sue Showers said she believes that local

and federal governments have already taken enough of the shoreline. She called for government bodies to "tread lightly" on property owners and to consider their feelings. "They wouldn't be living there if they didn't like the area," she said.

Several people also raised concerns about the ongoing erosion problem.

Frank Stimson of Ogden Dunes noted that during high lake levels a few years ago, his town had no beach. A shoreline management plan needs to address the need for beach nourishment and to "make sure we have a shoreline left to manage."

Charlotte Read of Tremont cited a recent report from a Purdue University professor who estimated that property losses caused by erosion could exceed the costs of the Savings and Loans bailout.

Read said there has been too much improper planning along the shoreline. She called for a ban on lake fills, and said that public land has not always been adequately protected from private intrusion. She also said no new development should be allowed along the shoreline unless it is strictly water-related.

Several speakers also said the management plan needs to address pollution in the lake. Several said that after heavy rains, they have witnessed severe pollution, apparently from treatment plants bypassing sewage.

Residents can provide input on how they would like to see the shoreline managed by submitting comments to: Shoreline Plan, NIRPC, 8149 Kennedy Ave., Highland, Ind., 46322.

The fourth and final meeting that will be held for public input will be next Wednesday, from 7 to 9 p.m., at Michigan City Hall.

Opinion

Richard B. Esposito
Publisher

Pasquale Rocchio
Managing Editor

EDITORIALS

Good process

Shoreline plan meetings provided invaluable input

It was done the way it should have been. The state Department of Natural Resources intends to formulate a Lake Michigan shoreline management plan. That area of Lake, Porter and LaPorte counties is important to every facet of the lives of those who live there. Their input is invaluable and the DNR was wise to seek it out.

City Hall in Michigan City was the scene Wednesday for the last of four public meetings sponsored by the Northwestern Indiana Regional Planning Commission to get this input.

NIRPC will prepare a scope of work, with recommendations, based on comments received at the meetings and will be present it to the DNR which will use it to develop a plan. The planning process is expected to begin in a few months.

Those attending the meeting brought up several major issues on which decisions will have to made. These include: boating access to beaches; safety for swimmers; and protection for private property.

Other concerns include balancing lakeshore industry with the need to preserve the environment; how to and where to allow public access; preservation of natural resources; and the need for public information regarding who is responsible for determining water laws and regulations.

The exercise was an excellent example of participatory government. We anxiously await the DNR's initial working plan and hope citizens have the opportunity for further input.

Marina advisors discuss shoreline

By Courtney Van Lope

Issues too important to wait several years have been brought out at the four public meetings sponsored by the Northwestern Indiana Regional Planning Commission and Indiana Department of Natural Resources, according to Steve Davis, Lake Michigan specialist of the IDNR.

Davis reported on the public meeting at the Lake Michigan Marina Development Commission's Citizen's Advisory Committee meeting held March 20.

Davis said shoreline access and buoys, how they should be marked and properly set out, should be dealt with by June.

Barbara Waxman, project director for the Marina Commission, plans to meet with law enforcement, IDNR, National Park Service and U.S. Coast Guard to get their agreement, and then put together a brochure telling how buoys should be marked and where boats can go.

In the meantime, Davis' advice to municipalities along the shoreline is "go to the Coast Guard Station and ask what is approved."

Davis noted buoys with Coast Guard approved decals must be used for shoreline marking.

Waxman, in a letter to IDNR Director Patrick Ralston, listed several steps which will improve access to the shoreline by both swimmers and boaters.

Waxman said the situation for the coming summer will be improved by working with local communities and agencies with enforcement responsibilities to achieve consistent and better identification of swimming and boating areas and to mark clearly restricted areas.

Davis, in discussing Waxman's recommendations, mentioned Ogdan Dunes' two lines of markers plus separated swimming area as a workable method, if buoys with Coast Guard approved designations are used.

In her letter, Waxman called for inter-agency agreements on enforcement, saying coordination and consistency in enforcement implementation are necessary. The information must be passed along to the public, so they understand designations and restrictions. Waxman said she plans to convene a meet-

ing of representatives from municipal, state and federal agencies to seek a consistent system for marking restricted areas.

Mike Doyne, of the advisory committee said, "Don't restrict the boaters from using the beach."

Waxman said the aim is to distribute a brochure at marinas, boat launches, recreation facilities and wherever they might be obtained by boaters or swimmers and at appropriate locations along the shoreline.

The advisors were also told Dale Engquist, superintendent of the Indiana Dunes National Lakeshore, said he concurred that "some action is necessary on the issue of boater/swimmer conflicts, uniform enforcement policies, and consistent marking or designated shoreline areas for swimmers and boaters."

Davis told the advisors that neither the IDNR nor the Coast Guard can patrol the entire Indiana coastline. He is hopeful all will be handled the same way.

Portage Journal

3/27/91

ATTACHMENT 6

ORGANIZATIONS AND AGENCIES REPRESENTED AT THE PUBLIC MEETINGS OR BY WRITTEN COMMENTS SUBMITTED BY MAIL

- | | |
|------------------------------------------------------------------|-----------------------------------------------------------------|
| 1. Miller Ikes Boat Club | 20. Little Calumet Fishing Coalition |
| 2. Great Lakes Coalition | 21. Indiana Dunes National Lakeshore,
National Park Service |
| 3. Ogden Dunes Town Council | 22. Northwestern Indiana Regional
Planning Commission |
| 4. Salmon Unlimited | 23. Duneland Sierra Club |
| 5. Lake Michigan Yachting Association | 24. Whiting Boat Club |
| 6. Save the Dunes Council | 25. Pottawatomie Audubon Society |
| 7. League of Women Voters | 26. Hoosier Environmental Council |
| 8. Gary-Hobart Water Corporation | 27. Duneland Beach Association |
| 9. Grand Calumet Task Force | 28. Tourism Division, Indiana
Department of Commerce |
| 10. Dunes Calumet Audubon Society | 29. Cedar Lake Fish and Game
Association |
| 11. Hoosier Coho Club | 30. Department of Forestry, Purdue
University |
| 12. Hammond Port Authority | 31. Hebron Chapter, Future Farmers of
America |
| 13. City of Hammond | 32. Griffith Chapter, Izaak Walton
League |
| 14. Soil Conservation Service, U.S.
Department of Agriculture | 33. Town Council of Beverly Shores |
| 15. City of Gary | 34. Portage Chapter, American
Association of Retired Persons |
| 16. Local 1010, United States
Steelworkers | 35. Gary Regional Airport Authority |
| 17. Hammond Sanitary District | |
| 18. Burns Waterway Authority | |
| 19. Gary Port Authority | |

36. Northern District, Northern Indiana
Public Service Company
37. Lake County Council
38. Lake County Fish and Game
Protective Association
39. Northwest Indiana Steelheaders
40. Burns Waterway Better Boating
Association

**SUMMARY OF FEDERAL, STATE AND LOCAL STATUTES AND
REGULATIONS DEALING WITH LAND AND WATER
USES ON THE INDIANA SHORELINE OF LAKE MICHIGAN**

INTRODUCTION

A diverse array of federal, state and local statutes and rules inter-relate and overlap to form the presently confusing and difficult regulation scheme for land and water use on the Indiana shore of Lake Michigan. Enforcement of this regulatory scheme is also vested at the federal, state and local level. The following summary is not intended as an exhaustive analysis of all regulations and their potential conflicts. It is a somewhat abbreviated look at the major regulatory schemes and their inter-relationship and potential conflicts caused thereby.

LAND USE REGULATION/LAKEFILL & CONSTRUCTION

Land use regulations dealing with the use of fill materials to create additional lakefront property are illustrative of the multi-jurisdictional regulatory scheme. As was recently observed by the Lake Michigan Federation's Legal Associate, Mark S. Davis:

Today, the practice of using lakefills to create additional land in the Great Lakes is regulated by a variety of federal, state and local laws and regulations. These laws and regulations are often not uniform in either scope or application and may vary from jurisdiction to jurisdiction. The multi-jurisdictional approach to dealing with lakefills increases the likelihood that the regulatory fabric will resemble a patchwork quilt more than a seamless blanket. This is true because, although there is a clearly stated national policy to prevent the degradation of the

nation's waters and wetlands, there is no single policy that addresses all of the issues that arise from the practice of placing fill into the lakes. (GREAT LAKES LAKEFILLS: A survey of Federal, State, & Municipal Laws, Policies, & Regulations in the United States, by Mark S. Davis, p.1)

Since 1972, the Federal Pollution Control Act (Clean Water Act/33 U.S.C. §1251 et seq.) has provided the federal framework for regulation of lakefill activity on Lake Michigan. Both the United States Army Corps of Engineers and the United States Environmental Protection Agency jointly share jurisdiction and responsibility for administering the regulatory provisions of the Clean Water Act.

Section 402 of the Clean Water Act (33 U.S.C. § 1342) authorizes and empowers EPA to issue permits except for dredging and filling activity which is regulated by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344).

Pursuant to Section 401 of the Clean Water Act, Indiana has promulgated and adopted water quality standards for Lake Michigan (330.1 IAC 2-1-1 et seq.). The Army Corps of Engineers cannot issue a lakefill permit unless a determination is made that the filling activity will comply with the water quality standards. Before issuance of a Section 404 permit, the Army Corps of Engineers must also engage in an extensive evaluation of the environmental impact of the proposed project. EPA has adopted extensive guidelines for evaluating the environmental impact of a

filling or dredging project. (40 CRF § 230.1).

Section 404 (f) of the Clean Water Act (33 U.S.C. §1344) provides for the exemption of certain activities from the permit requirements. Activities such as emergency repairs, maintenance or reconstruction of certain types of breakwaters and bridge abutments would qualify for the exemption. However, such activity may require the issuance of a permit by the Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act (33 U.S.C. §403).

On navigation related matters, any structure affecting the navigation of the navigable waters of the United States (including Lake Michigan) must be approved by the Army Corps of Engineers pursuant to 16 U.S.C. 797. The Secretary of Transportation must also approve the location and plans for bridges to be constructed over any navigable waters of the United States. (33 U.S.C. 525 et seq.). Pursuant to 33 U.S.C. 404, the Army Corps of Engineers is authorized to establish harbor lines when it determines that it is necessary for the preservation and protection of a harbor. The Fish and Wildlife Coordination Act is found at 16 U.S.C. 662 and provides that whenever any activity in the waters of the United States is initiated as the result of the issuance by any federal agency of a license or permit and when such activity "impounds, diverts, or otherwise controls any waters of the United States", such permit or license may not be issued by the federal agency until such time as that agency has

consulted the United States Fish and Wildlife Service and the head of the state agency having administration over the affected resource (Indiana Department of Natural Resources).

Two Indiana statutes specifically address the same or similar activities regulated by federal statute. I.C. 13-2-4-9 was adopted by the General Assembly in 1990. Pursuant thereto, a person, other than a public or municipal water utility, may not:

- (1) place, fill or erect a permanent structure in;
- (2) remove water from;
- (3) remove material from;

a navigable waterway without a permit from the Department of Natural Resources.

Pursuant to I.C. 13-2-4-9 (c), the Department of Natural Resources shall issue a permit under this section only if the issuance of the permit will not:

- (1) unreasonably impair the navigability of the waterway;
- (2) cause significant harm to the environment; or
- (3) pose an unreasonable hazard to life or property.

A separate permit is not required under I.C. 13-2-4-9 for other permitted activity by the Department of Natural Resources. However, any permit issued under the alternate permitting authority of the Department of Natural Resources must also apply the requirements of I.C. 13-2-4-9 with respect to any of the permitted activity which is intended to occur within a navigable waterway. Furthermore, a separate permit is not required under

I.C. 13-2-4-9 if a permit has been issued under any of the following:

- (1) 16 U.S.C. §1451 (Coastal Zone Management Act);
- (2) 33 U.S.C. §1344 (Clean Water Act);
- (3) 40 U.S.C. §6930 (Comprehensive Recovery Compensation and Liability Act).

Anyone violating the provisions of I.C. 13-2-4-9 commits a Class B Infraction under Indiana law. Since virtually all of the activities delineated in I.C. 13-2-4-9 (a) would involve filling and dredging activity requiring a permit under the provisions of the Clean Water Act, the actual significance of the Indiana permitting requirement would seem at best marginal.

The Indiana General Assembly also amended I.C. 4-18-13-1 during the 1990 Session. Pursuant thereto, the owner of land, or the owner of any easement for public park purposes in, over or through any land, bordering upon the waters of Lake Michigan may apply to the Department of Natural Resources for a permit to fill in, reclaim, or own the submerged land adjacent to and within the width of the land bordering upon the lake and upon the shore and the dock or harbor line established by the United States.

I.C. 4-18-13-3 allows the owner of land adjacent to the shore of Lake Michigan to fill in or construct any dock or wharf after obtaining the approval of the Natural Resources Commission of the Indiana Department of Natural Resources.

Pursuant to I.C. 4-18-13-1 (b), once the land is filled in

and reclaimed, the owner of the land adjoining the filled land becomes the owner in fee simple of the filled-in land. If the original owner held an easement over the land, the adjoining property owner acquires a similar easement over the filled land.

The 1990 amendments added I.C. 4-18-13-4 which places expiration dates on permits granted pursuant to this section. Any permit or authority to fill in or reclaim land bordering Lake Michigan that was issued before July 1, 1990 expired on December 31, 1991. Any permit for such filling or reclaiming of land activity which was issued after June 30, 1990 now expires five (5) years after the date the permit was issued.

I.C. 4-18-13-1 contains no standard or criteria for use by the Department of Natural Resources in determining whether or not to issue a permit. The absence of any standard or criteria is troubling. As Lake Michigan Federal Legal Associate, Mark S. Davis, observed:

Instead, the Department is guided by policy considerations when making permit decisions. This approach gives the Department of Natural Resources broad discretion in deciding whether to issue a permit. Of course, the absence of discernible standards increases the possibility of inconsistent determinations, especially during times when state policy is evolving or unclear. Presently, state policy is to discourage lake fills except for those that will aid navigation or otherwise benefit the public. It is not clear whether a proposed fill for a non-water dependent activity that is otherwise beneficial to the public would be allowed as consistent with state policy. This anti-fill policy is a departure from past practice which saw a number of permits issued for fills that serve largely private purposes. (GREAT LAKES LAKEFILLS: A survey of Federal, State, & Municipal Laws, Policies, & Regulations in the United States, by Mark S. Davis, p.52)

I.C. 4-18-13-1 constitutes Indiana's statutory version of the Common Law Riparian Right of owners of lakeshore property adjacent to submerged land. In its prior form, the statute was the basis of extensive lakefill activities especially in Lake County. It is believed that the new statutory language phasing in expiration dates for permits is indicative of a legislative intent to disfavor the Riparian Right permit process. It is also predictable that the Department of Natural Resources will be reluctant to issue such permits without appreciable consideration to the same type of criteria required under federal permitting statutes.

The "waters of the United States" language contained in the Clean Water Act includes designated wetlands. There are many such areas on and adjacent to Indiana's Lake Michigan shoreline. The Army Corps of Engineers is responsible for regulating land use activities in designated wetland areas pursuant to Section 404 of the Clean Water Act. Permits are required for virtually all land use activities in designated wetlands. There is currently a debate concerning the appropriate definition of a designated wetland. An appreciable amount of confusion has resulted from that debate. The federal regulation of wetlands is at best in flux and may well see significant regulatory changes in the near future.

In addition to the federal and state regulatory schemes,

there is currently one lakeshore community (Beverly Shores) which has initiated local involvement in the dredging and/or filling issue. The Town of Beverly Shores has implemented a local wetland protection ordinance which precludes certain types of construction, dredging and/or filling activities in a designated wetland. Much of Beverly Shores shoreline and the areas immediately adjacent thereto qualify as designated wetlands. The local ordinance requires compliance with a permitting process and is appreciably more restrictive in its delineation of permitted activity.

The Porter County Board of Commissioners is currently examining the feasibility of implementing a county-wide wetland protection ordinance. That ordinance is currently in its third draft stage. A copy of that draft appears in the appendix to these materials. The Porter County effort has centered on amending the Porter County Planning and Zoning Ordinance. Creation of a "wetland overlay" district has been considered. Overlay zoning is a technique for creating certain limited use areas predicated upon physical characteristics of terrain. A permit would also be required under the county wetland ordinance. The Porter County Wetland Ordinance would be applicable to all designated wetland areas found in unincorporated Porter County. As such, any such wetlands on the Indiana shoreline of Porter County and not within the boundaries of a municipality or the state or national park property would be included.

The water in all streams, lakes and other natural bodies in Indiana is deemed a natural resource pursuant to I.C. 13-2-1-2 and is subject to the control and regulation of the Indiana Department of Natural Resources. IDNR is empowered to protect the lakes, streams and springs of the State of Indiana against impurities or pollution by industrial, municipal, or other sewage waste (I.C. 14-3-1-14) and to protect and properly manage the fish and wildlife resources of the state (I.C. 14-2-1-1).

Pursuant to I.C. 14-3-1-14, approval must be obtained from the Natural Resources Commission of the Indiana Department of Natural Resources before performing any construction activities in the waters of Lake Michigan. The Indiana Port Commission is authorized to construct, maintain and operate port facilities on Lake Michigan pursuant to I.C. 8-10-1-1.

Public Law 177-1989 (I.C. 14-3-15-1 et seq.) creates the sand nourishment fund for purposes of carrying out the following functions:

- (1) the deposit of sand along the coast of Lake Michigan in Indiana;
- (2) the design and establishment of systems that cause sand to be deposited along the coast of Lake Michigan in Indiana;
- (3) the preservation or reduction of the degradation of sand along the coast of Lake Michigan in Indiana.

The statute is silent as to the process for seeking funding for such projects.

The Department of Natural Resources may issue a permit to any person to take sand, gravel, stone, or other material or substance from or under the bed of any of the navigable waters of the State of Indiana (including Lake Michigan). Such activity is precluded pursuant to I.C. 14-3-5-14.1 without such permit. Any such activity must be completed in such a fashion so as not to impede the navigation of such waters, nor damage or endanger any bridge, highway, railroad, public work or utility, or the property of any riparian owner or adjoining property or adjacent property, nor damage the lives of individuals. Violation constitutes a Class B Infraction under Indiana law.

Land use regulation regarding lakefill and construction on Indiana's Lake Michigan shoreline involves the need to assure compliance with the complicated multi-jurisdictional permit and regulatory system. One solution would be to create a "one stop" multi-jurisdictional inter-government regulatory procedure which would avoid the "grey areas" caused by overlapping jurisdiction and inconsistent regulations.

LOCAL LAND USE REGULATION/GENERAL

The principal way that local units of government in Indiana regulate land use within their boundaries is by implementation of authority delegated to the local unit of government for planning and zoning purposes. Each of the communities situated on the Indiana Lake Michigan shoreline has implemented a comprehensive

planning and zoning ordinance. That local planning and zoning authority lacks consistency and thoroughness in dealing with lakeshore development issues. Setback requirements are vague or nonexistent and are often made inapplicable due to the presence of pre-existing, nonconforming uses which are specifically exempted from the local ordinance. This is especially true for the Lake County shoreline due to the extensive use of lakefill and construction that has occurred thereon.

The Porter County Planning and Zoning ordinance contains a comprehensive soil erosion and sedimentation standard which requires the submission of a soil erosion control site plan prior to the issuance of a building permit. The soil erosion control guidelines contained in the ordinance call for the extensive use of haybales and silt fences to minimize the impact of soil erosion during construction on steep slopes.

Indiana's failure to participate in the coastal zone management program has resulted in the absence of a comprehensive shoreline land use strategy. Each local jurisdiction has "gone it alone", and the resulting pattern of inconsistencies produces land use conflicts of significant magnitude.

The municipalities located on the Indiana Lake Michigan shoreline have no extra-territorial planning or zoning authority which would extend any municipal planning or zoning ordinance into the waters of Lake Michigan. Furthermore, Indiana courts have ruled and the Indiana Attorney General confirmed in official

opinion 80-37 that a city has "no title to either the waters of Lake Michigan or the bed of Lake Michigan." A copy of that official Attorney General opinion appears in the appendix to these materials.

The creation of port authorities by local units of government in Indiana is controlled by I.C. 8-10-5. Hammond, Portage, and Michigan City have utilized this statutory tool for purposes of implementing lakefront development. Pursuant to I.C. 8-10-1-8, port authorities established by local units of government are empowered to purchase, construct, sell, lease and operate docks, wharfs, warehouses, piers and other port terminals or transportation facilities within their jurisdiction. Unfortunately, I.C. 8-10-5-7 limits that jurisdictional area to include only the territory of the municipal subdivision which created the port authority. As such, port authorities have the same inherent jurisdictional problem which attaches to the lakefront communities. There needs to be a legislative response to clarify the issue created by the lack of extra-territorial authority of port authorities operating on Lake Michigan.

WATER USE ENFORCEMENT ISSUES

An examination of water use enforcement issues associated with the recreational use of Lake Michigan waters reveals a similar pattern of overlapping jurisdictions and conflicts. The boundaries of each of the municipalities sharing the Indiana Lake

Michigan shoreline extend only to the shoreline itself. As such, any enforcement activities by municipal police officers on the waters of Lake Michigan constitute an effort by that municipality to exert extra-territorial enforcement authority. On the other hand, the northern boundary of Lake, Porter and LaPorte Counties is contiguous to the northern boundary of the State of Indiana and extends significantly into the waters of Lake Michigan. As such, county law enforcement officers can patrol the waters of Lake Michigan and remain well within their jurisdictional boundaries.

The Indiana Department of Natural Resources maintains an enforcement division which exercises jurisdiction on the Indiana waters of Lake Michigan. The DNR Conservation Officers enforce the recreational watercraft safety laws of the State of Indiana as well as the fish and wildlife regulations. The United States Coast Guard also patrols Lake Michigan waters while enforcing federal regulation.

Department of Natural Resources Conservation Officers can enforce federal law on the waters of Lake Michigan only when specifically empowered to do so by the Indiana General Assembly. Examples of such specific authority are found at:

- (1) I.C. 14-2-8-1.8;
- (2) I.C. 14-2-8.5-7;
- (3) I.C. 14-1-1-30;
- (4) 310 IAC 2-31.

The chief legal counsel of the Indiana Department of Natural Resources has rendered a legal opinion indicating that unless DNR receives specific authority from the legislature to enforce federal statutes, the DNR conservation officers are unable to do so. For this reason, DNR perceives its jurisdiction to be very limited in federal matters.

Through its Division of Fish and Wildlife, the Department of Natural Resources is responsible for protecting and properly managing the fish and wildlife resources on Lake Michigan pursuant to the provisions of the Fish and Wildlife Act (I.C. 14-2-1-1 et seq.). Indiana Department of Natural Resources conservation officers are also responsible for enforcement of the watercraft safety laws of the State of Indiana as found at I.C. 14-1-1-1 et seq. However, any police officer in the State of Indiana has the power and is specifically statutorily given the duty to enforce the watercraft safety laws as well as the lawful rules duly made and promulgated by the Indiana Department of Natural Resources. (I.C. 14-1-1-60). Furthermore, conservation officers employed by the Department of Natural Resources have all of the powers of police officers for purposes of enforcing the watercraft safety laws and regulations of the State of Indiana.

As such, county deputy sheriffs are clearly empowered to enforce the watercraft safety laws and regulations of the State of Indiana within their respective county boundaries. Municipal police officers can enforce the watercraft safety laws and

regulations to the extent that there exists extra-territorial authority under Indiana law. There is a substantial legal question concerning the ability of a lakeshore municipality to adopt local ordinances which have extra-territorial effect. As such, a question has arisen concerning a lakeshore community's ability to enforce a local municipal ordinance upon the waters of Lake Michigan. This issue needs clarification and attention by the General Assembly. As communities on Indiana's Lake Michigan shoreline continue to develop recreational facilities, the issue of enforcement of municipal ordinances will become of greater concern.

Obviously, Department of Natural Resource conservation officers have jurisdiction and authority throughout all of the Lake Michigan waters in the State of Indiana and enforce Indiana statutes. Personnel from the Coast Guard also patrol the Indiana waters of Lake Michigan for purposes of enforcing federal laws and regulations.

STATE WATERCRAFT SAFETY LAWS AND REGULATIONS

As the result of the increased recreational use of Indiana's Lake Michigan shoreline, conflicts have developed concerning alternate recreational water uses. Recreational boaters, fishermen, skiers and swimmers have more regularly come in close proximity with the expected result of conflict and discord. An examination of the Indiana recreational watercraft safety

statutes reveals a number of statutory prohibitions which, if enforced, could mitigate and minimize the conflict caused by conflicting water use.

Operation of a recreational watercraft on Lake Michigan is regulated by state statute and DNR regulation. Generally, no person shall operate any watercraft on Lake Michigan in such a manner as to:

- (1) unnecessarily endanger the person or property of another person;
- (2) unnecessarily interfere with the safe and lawful use of the public waters of this state by another person; or
- (3) unnecessarily interfere with or obstruct a special event sanctioned or otherwise legally permitted by the Department (another state or the United States). (I.C. 14-1-1-20)

Daytime operational speed of recreational watercraft on Lake Michigan is regulated by I.C. 14-1-1-22. Pursuant thereto, it is unlawful for any person to operate any recreational watercraft at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit the operator, in the exercise of reasonable care, to bring such watercraft to a stop within the assured clearance distance.

Nighttime speed is regulated by I.C. 14-1-1-13 in that no person may operate a watercraft during any period between sunset

and sunrise at a rate of speed greater than ten (10) miles per hour. It is also unlawful pursuant to I.C. 14-1-1-11 to operate any motorcraft on Lake Michigan during the period between sunset and sunrise which is not equipped with a light or lights as required by the statute.

I.C. 14-1-1-6 makes it unlawful to operate a watercraft on Lake Michigan unless that watercraft is equipped with a muffler, an underwater exhaust, or other device which muffles or suppresses the sound of the exhaust so as to prevent excessive and unusual noise at all speeds.

Pursuant to I.C. 14-1-1-9 (a), it is unlawful for the operator of any watercraft on Lake Michigan to throw, dump, place, dispose or cause or permit to be thrown, dumped, placed or disposed any litter, filth, putrid or unwholesome substance, or the contents of any watercloset or cabinet, catchbasin, or grease trap in or upon the waters of Lake Michigan. Anyone violating this provision commits a Class B Infraction under Indiana law.

Pursuant to I.C. 14-1-1-16, every person operating a recreational watercraft on Lake Michigan shall do so in a careful and prudent manner, having due regard for the rights, safety and property of other persons, the conditions and hazards, actual and potential, then existing, including weather, intensity of traffic, and the possible injury to person or property of other persons.

The watercraft "rules of the road" are found at I.C.

14-1-1-26. Pursuant thereto, when two boats are approaching each other "head to head" or nearly so, each boat shall bear to the right and pass the other boat on its left side. When two boats are approaching each other obliquely or at right angles, the boat on the right shall have the right-of-way. A boat may overtake and pass another boat on either side if the same can be done with safety and within assured clearance distances but the boat overtaken shall have the right-of-way, and a boat leaving a dock, pier or wharf or the shore shall have the right-of-way over boats approaching the same.

I.C. 14-1-1-27 provides that no person shall operate any watercraft so as to approach or pass another boat in such a manner or in such a rate of speed as to create a hazardous wake or wash.

I.C. 14-1-1-28 provides that no person shall operate a watercraft in a circular course around any other boat, any occupant of which is engaged in fishing or any person swimming.

It is unlawful under the provisions of I.C. 14-1-1-29 for any person to operate a watercraft so as to approach or pass within two hundred (200) feet of the shoreline except for the purpose of trolling or for the purpose of approaching or leaving a dock, pier, or wharf or the shoreline of the lake. Operation of any watercraft within the "two hundred (200) foot" distance from the shore shall be at a rate of speed not greater than ten (10) miles per hour.

I.C. 14-1-1-31 provides that all of the statutory and regulatory requirements of the watercraft safety rules are applicable whether or not a watercraft is towing any water ski, water sled, or similar object, or any person thereon. It is unlawful to operate any watercraft while towing a skier unless the watercraft is occupied by at least one (1) person other than the driver of the watercraft who is giving his entire attention to watching the object or person being towed. (I.C. 14-1-1-22).

No person shall operate a motorcraft in such a fashion so as to sound any whistle or horn when the passage of such boat is clear and without danger or when a warning signal is not necessary to prevent injury to person or property. Unnecessary sounding of a whistle or horn is declared by the statute a public nuisance and is prohibited pursuant to I.C. 14-1-1-33. Sirens are also prohibited pursuant to I.C. 14-1-1-34.

The General Assembly amended the Indiana Code in 1989 to specifically address safety issues associated with underwater diving activities in any of the waters of Indiana. Pursuant to I.C. 14-1-7-1, a "diver" is any person wholly or partially submerged and equipped with a face mask and snorkel or underwater breathing apparatus. Diving activity shall occur in the waters of Indiana only when the diver has permanently displayed a "divers down flag" in the area in which the diving is occurring except when the diving activity is occurring in an area customarily used for swimming only. (I.C. 14-1-7-5). No one may

operate a watercraft within one hundred and fifty (150) feet of a diver's down flag unless the watercraft is directly involved in supporting the diver. No object may be placed in the water within one hundred feet (100) of a diver's down flag, and any watercraft involved in supporting the diver must remain within one hundred (100) feet of the diver's down flag. A diver may not dive or display a diver's down flag within one hundred and fifty (150) feet of an anchored watercraft (I.C. 14-1-7-7), and except during an emergency, a diver shall always surface within one hundred (100) feet of the diver's down flag. The statute further provides that if a diver does surface at a distance greater than one hundred (100) feet from the diver's down flag, the operator of a motorcraft is not liable for injury to the diver unless the operator was negligent in the operation of the watercraft. Pursuant to I.C. 14-1-7-9, any person who violates the diving provisions commits a Class C Misdemeanor under Indiana law.

Although the preceding discussion might lead to the conclusion that there is ample statutory provision for safe operation of recreational watercraft in close proximity to other Lake Michigan water uses, the problem becomes one of enforcement. Without clearly delineated areas for alternate water use activities, the safety of swimmers, skiers, boaters and fishermen becomes a matter of intensive expenditure of time and manpower to enforce the statutory provisions. The problem can be better

addressed by attempting to isolate differing and conflicting water use activities by designating areas for such activities. The function of designating such areas is shared jointly by the United States Coast Guard and the Indiana Department of Natural Resources. The respective authority and responsibility for such designation is at best difficult to discern. DNR has recently determined that an agreement originally entered into in July of 1985 between the Indiana Boating Law Administrator and the Second Coast Guard District may substantially clarify the respective roles of the Coast Guard and DNR on this important issue.

JULY 1985 AGREEMENT

In July of 1985, the Boating Law Administrator of the State of Indiana entered into an agreement with the Second Coast Guard District, the purpose of which was to define the relationship between the State of Indiana and the United States Coast Guard in the conduct of the recreational boating safety programs administered by both agencies including the mutual enforcement of laws relating to watercraft safety on waters within the concurrent jurisdiction of the state and the United States. A copy of that agreement appears in the appendix to these materials.

The agreement made significant and substantive changes to the relationship between the Department of Natural Resources and the Coast Guard. However, the DNR operated until recently under

the assumption that the agreement covered only the Ohio River waters. DNR assumed that the agreement was not applicable to the waters of Lake Michigan. This was not necessarily an unreasonable assumption given the fact that the Second Coast Guard District is officed in St. Louis, Missouri, and does not cover the southern shore of Lake Michigan. However, as a result of a recent meeting with the Cleveland Offices of the Coast Guard, it was determined that the Coast Guard was of the opinion that the agreement was applicable to the Indiana Lake Michigan waters. As such, the agreement is currently under review for purposes of implementing its substantial provisions on the waters of Lake Michigan.

The terms of the agreement deal with the following general categories:

- (1) law enforcement;
- (2) public education and training;
- (3) boating casualty reports and investigative reports;
- (4) search and rescue;
- (5) regattas and marine parades;
- (6) aids to navigation.

Under the terms of the law enforcement section of the agreement, the State of Indiana assumes primary law enforcement responsibility for recreational vessels on the waters subject to concurrent jurisdiction with the Coast Guard. The Coast Guard is assigned exclusive responsibility for the enforcement of vessel

inspection and related federal statutes applicable to non-recreational vessels. In order to avoid duplication of effort, the agreement dictates that the Indiana Boating Administrator and the Chief of the Boating Safety Division of the Second Coast Guard District shall coordinate law enforcement patrols on waters subject to concurrent jurisdiction in order to "provide the most effective law enforcement possible with the vessels and personnel available."

Without abrogating or limiting the jurisdiction of the State of Indiana or the United States Coast Guard, the agreement delineates the respective responsibilities and commitments of state and federal authorities on water subject to concurrent jurisdiction. The Coast Guard and Indiana Law Enforcement Officials jointly agree to jointly cooperate with each other in the prosecution of violations of their respective regulations.

In the public education and training portion of the agreement, the Coast Guard agrees to provide boating safety instructor training for state law enforcement personnel through the National Boating Safety Course located at the Coast Guard Reserve Training Center in Yorktown, Virginia. The parties further agree to coordinate their public education programs by distributing each others pamphlets, applications and forms.

The Indiana Boating Law Administrator is required by the agreement to notify the Coast Guard within thirty days of all boating casualties involving fatalities and thereafter to

promptly forward to the Coast Guard the completed accident or casualty report.

The agreement establishes procedures for implementation of search and rescue efforts on waters subject to concurrent jurisdiction. The Coast Guard agrees to concentrate its search and seizure activities primarily on coastal waters, harbor areas, and inland water areas in the vicinity of Coast Guard facilities. On other inland waters subject to concurrent jurisdiction, the Coast Guard will look primarily to search and rescue services provided by Indiana and the local communities. Both the State of Indiana and the Coast Guard agree to actively support and participate in local search and rescue workshops, water safety councils and other organizations to foster closer cooperation and coordination among state and local agencies, federal agencies, and others who have an interest or responsibility in search and rescue matters.

The agreement sets up a formal structure and procedure for control over regattas and marine parades.

The agreement delegates to Indiana the authority to regulate maritime aids to navigation (including regulatory markers) on the condition that the aids conform to the Uniform State Waterway Marking System (33 CFR, Subpart 66.10) or the United States Lateral System of Buoyage (33 CFR, Subpart 62.25). The agreement constitutes a "general permit" in lieu of individual permits for all maritime aids to navigation placed in waters subject to

concurrent jurisdiction. However, the Coast Guard reserves the right to require Indiana to modify or remove any maritime aid to navigation (including regulatory markers) when directed to do so by the Coast Guard. The Coast Guard further reserves the right to inspect the maritime aids to navigation. The agreement further provides that Indiana shall inform the Coast Guard of the nature and extent of any changes in Indiana maritime aids to navigation after the effective date of the agreement.

In each instance in which a regulatory marker is established pursuant to the agreement, Indiana shall require the agency or political subdivision of the state establishing or authorizing the marker to obtain prior permission from the United States Army Corp. of Engineers. Indiana is required by the agreement to annually provide the Coast Guard with a listing of all aids being administered under the program.

The applicability of the 1985 agreement to the waters of Lake Michigan will allow DNR and the local communities a significant amount of responsibility before the establishment of a regulatory marker system. The Coast Guard will have minimum involvement in an oversight capacity. Prior to the determination that the "general permit" concept contained in the agreement would be applied to the waters of Lake Michigan, DNR had limited "site specific" rule making authority which was shared concurrently with the Coast Guard. The line of demarcation between Coast Guard, DNR and local authority and responsibility

was difficult to discern. DNR now has the acquiescence of the Coast Guard for implementation of a comprehensive regulatory marking program on the waters of Lake Michigan. DNR needs to formulate an implementation strategy for its increased involvement and participation in the regulatory marker issues on Lake Michigan.

DNR already has two regulations that address similar issues. The procedure contained at 310 IAC 2-2-1 provides for the identification of "regulated areas" and the process for identifying "unusual conditions or hazards" and the marking of same. The regulation makes it unlawful to engage in a prohibited watercraft operation or activity or to engage in a watercraft operation or activity other than those permitted within an area identified by a marker placed pursuant to the regulations. 310 IAC 2-27 establishes a water recreation structure permitting process. This regulation defines a "permanent structure" as any structure which reasonably requires use of machinery such as cranes, bulldozers and backhoes for installation and removal, and generally includes any structure in or over public waters which would involve the use of poured concrete, steel sheet or timber pilings or fill materials for support. Pursuant to 310 IAC 2-27-2, a permanent water recreation structure may not be placed upon the "public waters" of Indiana except in accordance with a prior permit issued by DNR. The regulation requires that a conservation officer perform an inspection of the site proposed

for placement of the permanent water recreation structure. As such, DNR has administrative rules and regulations which can form the blueprint for implementation of a comprehensive regulatory marking system for the waters of Lake Michigan. Integrating diverse and divergent water recreational uses with a comprehensive shoreline wide regulatory marker system will avoid the inherent problems in isolated site specific determinations and the resulting piecemeal approach to water use issues. The determination that the 1985 agreement is applicable to the waters of Lake Michigan should be a stimulus and catalyst for Indiana's water use planning process.

The general spirit and intent of the agreement is captured by its concluding language:

The state shall endeavor to conform its laws, rules and regulations with federal law to the fullest extent practicable, subject to the federal pre-emption provisions contained in Title 46 U.S.C. The Coast Guard and the state shall promptly furnish each other with the text of any law, rule, or regulation having to do with numbering, equipping, or operation of vessels which are the subject of this agreement or any administrative interpretations thereof.

The agreement is of substantial significance to the administration of water use regulations on the Indiana waters of Lake Michigan. As lakefront marina development continues, the potential need for search and rescue activity will increase. It is apparent from the agreement that the Coast Guard contemplates a significant participation in that process by local units of government. Presently, Lake, Porter and LaPorte County Sheriff

Departments have units assigned to search and rescue activities on Lake Michigan. There has also been discussion concerning municipal involvement in the search and rescue process by those communities wherein marinas are located.

PUBLIC ACCESS

Public access issues have significantly contributed to the current debate which has resulted from the significant changes that are occurring to the land and water uses of the Indiana Lake Michigan Shoreline. This is especially true in Lake County where Hammond has "reclaimed" a portion of its shoreline for construction of a public marina. The City of Gary is in the process of "reclaiming" a portion of its shoreline for public development. Although a significant portion of the Lake Michigan shoreline in Porter and LaPorte Counties is dedicated to public access, specific issues such as the availability of boat launching ramps for public use have added to the debate. Public access issues need to be addressed and resolved as a part of any comprehensive lakeshore management planning process.

As the result of the public access debate in Lake County, the General Assembly in 1989 adopted I.C. 14-3-14-1. It applies only to marinas located in a county having more than two (2) second class cities (Lake County). The statute prohibits the State of Indiana from providing monetary assistance or "other consideration" unless the marina:

- (1) provides a boat ramp without charge for access by Indiana residents to the water served by the marina;
- (2) provides access to marina property without charge for fishing by Indiana residents in the waters served by the marina; and
- (3) dedicates at least eight percent (8%) of the total number of parking spaces at the marina for parking of vehicles (including boat trailers) by Indiana residents without charge.

The statute is another example of a piecemeal approach to a significant issue of public access. Although the statute's intent is clear, its language leaves much to be desired concerning implementation. Questions have arisen concerning what is "other consideration" as well as whether or not Indiana residents operating commercial fishing operations would be entitled to utilization of the "free" boat ramp. The statute also illustrates the land and water use conflicts that can develop even within the boundaries of an operating marina. The statute requires the marina to provide access to marina property "without charge" for fishing but does not specify any implementation criteria and leaves much to the discretion of the marina operator. Although the intent and purpose of the statute would seem to be constructive, the issue of public access needs to be addressed in a more comprehensive and shoreline-wide analysis. The Indiana Attorney General was asked in April of 1990 to interpret the provisions of I.C. 14-3-14-1. A copy of the Attorney General's official opinion 90-8 is in the appendix

to these materials.

Although not well developed under Indiana law, the Public Trust Doctrine has emerged in recent years as a significant component of land and water use management. From its origins in Roman Law, the Public Trust Doctrine has evolved through English Common Law and has developed in the United States through federal and state case law and is also found codified in state statutes and constitutions.

The Public Trust Doctrine provides that:

Public trust lands, waters and living resources in a state are held by the state in trust for the benefit of all of the people and establishes the right of the public to fully enjoy public trust lands, waters and living resources for a wide variety of recognized public uses. The Public Trust Doctrine is applicable whenever navigable waters or the lands beneath are altered, developed, conveyed or otherwise managed or preserved. It applies whether the trust lands are publicly or privately owned. The Doctrine articulates not only the public rights in these lands and waters but it also sets limitations on the states, the public, and private owners, as well as establishing duties and responsibilities of the states when managing these public trust assets. (PUTTING THE PUBLIC TRUST DOCTRINE TO WORK, by David C. Salade, Project Manager, National Public Trust Study).

The Public Trust Doctrine has been recognized and affirmed by the United States Supreme Court, lower federal courts and state courts. Under federal case law, each of the fifty states is responsible for creating its own public trust doctrine for trust lands and waters within its boundaries. As such, there is no single "public trust doctrine" that has evolved. Each of the

fifty states have created their own doctrine. An extensive review and analysis of the Public Trust Doctrine is beyond the scope of this effort. The Public Trust Doctrine has not been well defined in Indiana case law. However, it is anticipatable that the Public Trust Doctrine in some form will play a significant role in the future debate surrounding land and water use management on the Indiana shores of Lake Michigan.

CONCLUSION

The land and water uses of Indiana Lake Michigan shoreline are regulated and controlled by a piecemeal scheme of federal, state and local statutes, rules and regulations. In many instances, the statutes and regulations overlap in their applicability and inter-governmental cooperation and communication is necessary in order to clarify many of the "gray areas" resulting from such overlapping jurisdiction.

The creation of a "one stop" permit process would appreciably clarify the land use permitting process and expedite what can be presently and exceeding arduous, time-consuming and expensive process. Clarification is needed in areas of extra-territorial authority and jurisdiction. Overlapping and concurrent jurisdiction and enforcement authority also poses problems. DNR needs to take steps to implement on Lake Michigan the 1985 agreement with the Coast Guard.

What is needed more than anything else is a comprehensive

and shoreline-wide plan. Indiana's participation in the coastal zone management program would be of appreciable assistance in that regard.

It is predictable that the conflicts and problems associated with the changing use of Indiana's Lake Michigan shoreline will continue to grow. Public access issues need to be addressed on a shoreline-wide planning basis and some issues associated with extra-territorial authority, jurisdiction and enforcement ability need to be clarified by the General Assembly.

If Indiana's Lake Michigan shoreline is to fulfill its potential for recreational and economic growth, a balance must be found between diverse land and water uses. If the challenge can be met, the future is bright.

APPENDIX

1. Draft of Porter County Wetland Ordinance
2. Federal/State Agreement with Coast Guard
3. Attorney General Opinion 80-37
4. Attorney General Opinion 90-8

FIFTH DRAFT WETLAND ORDINANCE

SECTION I

A. Declaration of Policy.

It is declared to be the public policy of the County of Porter to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoilation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial to economic, social and agricultural development of the County of Porter.

B. Statement of Findings.

1. Acreage of freshwater wetlands in the jurisdiction of the County of Porter has been lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unrelated acts.
2. The preservation, protection and conservation of wetlands is of public concern because of the benefits they provide. These include:
 - a. Flood and stormwater control. Wetlands may slow water runoff and temporarily store water, thus helping to protect downstream areas from flooding. Public health and private property in one part of a watershed may be harmed if wetlands are destroyed in a different part of that watershed.
 - b. Wildlife habitat. Wetlands are of unparalleled value as wildlife habitat, and the perpetuation of scores of species depends upon them. Many of the species are migratory and must have nesting, migration, and wintering habitat. The destruction of one kind of wetland habitat in one place may reduce populations of wildlife elsewhere. Where specific wetlands support endangered species, destruction of those wetlands may threaten the presence of the endangered species for all time.
 - c. Water supply. Wetlands themselves are a source of surface water and may, under appropriate hydrological conditions, serve to recharge groundwater and aquifers and to maintain surface water flow.

- d. Water quality. Many wetlands serve as chemical and biological oxidations basins that help cleanse water that flows through them. Wetlands can also serve as sedimentation areas and filtering basins that absorb silt and organic matter, thereby protecting channels and harbors and enhancing water quality.
- e. Fisheries. Wetlands provide the spawning and nursery grounds for several species of fish. The availability of these fish in lakes and streams may be adversely affected by the loss of wetlands adjacent to those waters.
- f. Food chains. Food and organic materials supplied by wetlands support the fish and wildlife of adjacent waters. Wetlands serve as sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.
- g. Recreation. Wetlands provide important hunting, fishing, boating, hiking, birdwatching, photography, camping, and other recreational opportunities. In addition, wetlands may be critical to recreation beyond their own borders because of the ability to protect water quality and protect and produce wildlife and fish.
- h. Open space and aesthetic appreciation. Wetlands provide visual variety in many different settings. Especially in urban areas, wetland open space contributes to social well-being by providing relief from intense development and a sense of connection with the natural world.
- i. Education and scientific research. Because of the high biological productivity and the variety of plant and animal species they can support, wetlands can be of broad social benefit in providing outdoor laboratories and living classrooms for studying and appreciating natural history, ecology, and biology. Many of the lessons learned and principles evolved through study of wetlands are applicable to other environmental issues.

SECTION II.

A. Statement of Purpose.

The purpose of this ordinance is to assure the protection of the general health, safety and welfare of the residents and the protection of the wetland resources of the County of Porter, for now and in the future, through preservation and conservation of wetlands and sound management of development by:

- 1. Establishment of authority and jurisdiction to enforce wetland regulations.

2. Requiring sound management practices that will protect, conserve, maintain, enhance and improve the present quality of wetlands within the community.

B. Authority.

This section is adopted under the authority of Indiana Code s 36-1-3-1 et seq. (Home Rule) and Indiana Code s 36-7-4. (Local Planning and Zoning).

C. Definitions

Applicant - means the person giving notice of intention to engage in any of the activities requiring a permit under this section.

County - Porter County, Indiana

Development - any improvement or change to property brought about by human activity, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Executive Secretary - refers to the Executive Secretary of the Porter County Plan Commission pursuant to IC 36-7-4-311 (a).

Fill material - any solid material that displaces water or reduces water holding capacity.

Hydric soil - a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydrophytic vegetation - macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Indiana Department of Environmental Management (IDEM) - a agency that also approves wetland permits concerning 401(b)-1 guidelines.

Mitigation - the act of replacing wetlands under the permitting process of the Army Corp of Engineers.

National Wetlands Inventory - a series of maps produced by the US Fish and Wildlife Service showing the location and classification of wetlands in standard topographic areas.

Nationwide Permit - a wetland permit issued by the Army Corp of Engineers.

Natural water storage capacity - the maximum volume of water a wetland can contain up to its ordinary high water mark without alterations to its natural grade or contour.

Periodic maintenance - ordinary inspection and repair of facilities accessory to use of a wetland. This includes

erosion control, removal of silt and non-hydrophytic vegetation from a wetland in ways that do not substantially disturb hydrophytic land and animal life. Periodic maintenance does not include any modification of a wetlands contour or natural water storage capacity.

Permit, Local - permits required by local law.

Permit, Wetland - means the written approval, issued by Porter County government, where required for the conducting of a regulated activity in a wetland or wetland buffer area.

Person - shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representative, agents or assigns.

Pollution means the presence in the environment of human induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property.

US Army Corp of Engineers - agency authorized by the USA government to issue permits for development in and/or around all wetlands. (over three acres in size).

Wetlands - those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions and contain three essential characteristics: (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology, which is the driving force creating all wetlands. The three technical criteria specified are mandatory and must all be met for an area to be identified as wetland. Therefore, areas that meet these criteria are wetlands.

Wetland Boundary - the delineated wetland area.

Wetland Buffer Area - 25 feet measured horizontally from the wetland boundary.

Wetland hydrology - refers to the wetness of an area. The criteria for Wetland hydrology as outlined in the Field Guide for Delineating Wetlands must be met to achieve wetland hydrology. These criteria use the Unified Federal Method for Wetland Delineation.

SECTION III

A. Regulated Activities.

1. If the property in question is designated by a qualified soil scientist, or appears on the National Wetland Inventory maps, or the Soil Conservation

wetlands maps as having a wetland(s) or part of a wetland as part of a development project, any person desiring to develop said wetland(s) must obtain approval by the US Army Corp of Engineers before any local permits or wetland permits may be issued. If an Army Corp of Engineer permit is required, a wetland permit is also required.

2. If development plans indicate any change to the wetland buffer area, a wetland permit will be required.
3. Activities requiring a wetland permit include:

Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel, flora, fauna or other aggregate from any freshwater wetland, either directly or indirectly; and any form of dumping, filling, or depositing of any soil stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; erecting any structures, roads, the driving of pilings, or placing of any other obstructions within 25 feet of the edge of the wetland whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to, installing a septic system, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland; killing or materially damaging any flora or fauna, including the cutting of trees; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom.

3. Prohibited Uses:

- a. Disposal of waste material including, but not limited to, sewage, demolition debris, hazardous and toxic substances, and all waste that would normally be disposed of at a solid waste disposal site or into a sewage disposal system or sanitary sewer.
 - b. Solid waste disposal sites, sludge ash disposal sites, hazardous waste transfer or disposal sites.
 - c. Animal feedlots.
 - d. The draining of wetlands is specifically prohibited unless the US Army Corp of Engineers finds that the wetlands being drained are mitigated by wetlands that will have equal or greater public value. However, this restriction does not apply to agricultural drainage projects.
4. The following uses are allowed without a local permit as long as adverse effects are otherwise minimized:
- recreational and agricultural activities;
temporary structures ;

temporary boat anchorage;
maintenance or operation of existing structures
including maintenance, repair, or operation of oil
or gas pipelines and powerlines;
operation or maintenance of existing dikes and
levees.

5. When evaluating permit applications, the County of
Porter is required to satisfy the four following
criteria:

- a. The approval will not be injurious to the public
health, safety, morals and general welfare of the
community, including the environmental impact;
likely destruction of wetlands and flora and fauna;
impact of the site preparation on freshwater ebb and
flow and the otherwise normal drainage of the area in
question, especially as it relates to flood control;
impact of the site preparation and proposed activity
on the quality and quantity of surface, ground and
subsurface water resources and other resources.
- b. The approval will not be injurious to the public
health, safety, morals and general welfare of the
community.
- c. The use and value of the area adjacent to the
property included in the wetland area, wetland buffer
area, and offsite wetland areas will not be affected
in a substantially adverse manner.
- d. The denial of a permit will result in practical
difficulties in the use of the property.

B. General Development Standards

1. No building, structure, street, alley, driveway or
parking area shall be placed closer than 25 horizontal
feet from the boundary of a wetland.
2. All uses within 50 horizontal feet of the wetland
boundary shall have flood protection grades at least
two (2) feet above the ordinary high water mark.
3. All wetlands, or parts thereof, must be delineated
on all site plans and primary plats and all US Army
Corp of Engineer permits or variances from the County
Drainage Board must be obtained. Twenty (20) days
before the secondary plat of any subdivision or PRD or
PUD is approved all local wetland permits must be
obtained.
4. No Improvement Location Permit shall be issued for
any parcel located outside of a subdivision or a PRD
without a wetlands identification from the Federal Soil
Conservation Service, or the National Wetland
Inventory, or by a qualified soil scientist, and a
release from the County Surveyor office showing that

the dwelling will not be located within a Regulated Drain easement.

5. In granting a permit, the County may limit the same or impose conditions or limitations designed to carry out the public policy set forth in this article. The County may require a bond in an amount and with surety and conditions satisfactory to the county securing to the County compliance with the conditions and limitations set forth in the permit. The County may require a written decision by the US Army Corp of Engineers. The County may suspend or revoke a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit or has exceeded the scope of the activity as set forth in the application. The County may suspend the permit if the applicant fails to comply with the terms and conditions set forth in the application. The County shall state upon the record findings and reasons for all actions taken pursuant to this section.
6. A violation of any Army Corp of Engineer permit issued is also a violation of this ordinance.

C. Time of Permit--Extension and Renewals.

1. Unless otherwise specified by the County, a permittee shall begin and complete the activity authorized by the permit within one year after the date the permitting agency approves the permit application.
2. The permittee shall provide written notice to the County Engineer 24 hours prior to the commencement and completion of the project. No project shall be deemed to have been completed until approved by the County Engineer after receipt of notice of completion.
3. If the permittee fails to commence work on the development within the time specified herein, the permit shall be void. The permitting agency may renew a void permit at its discretion. If the permitting agency does not renew the permit, the holder of the void permit may make original application for a new permit.
4. The permittee may make written application to the permitting agency for an extension of the time to commence work, but only if the permittee submits the application prior to the date already established to commence work. The application for an extension shall state the reasons the permit requires and extension.
5. The activity authorized in the permit shall be strictly construed to the task requested by the applicant. If the applicant wishes to engage in other activity, a separate permit shall be required.

D. Inspection.

The County Engineer may cause inspection of the work to be made periodically during the course of such work and shall cause final inspection to be made following the completion of the work.

E. Enforcement.

In addition to possible federal criminal prosecution, the County may institute injunctive proceedings to correct any violation of this ordinance. The County may require the complete restoration of a wetland to its prior natural state at the violator's expense. If a permittee engages in any activity beyond the scope of the permit, the permit shall be rescinded.

F. Severability.

Every section, provision or part of this ordinance is separable from every other section, provision or part of this ordinance, and if any section, provision or part thereof shall be held invalid by any court of competent jurisdiction, it shall not affect any other section, provision or part of this ordinance.

G. Penalty.

Violators of this ordinance shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed \$700 or by imprisonment for a period not to exceed 90 days. Each day that a violation continues shall constitute a separate offense.

H. Authority

The Plan Commission Executive Secretary shall review applications and issue permits. The Executive Secretary may refer an applicant to the Technical Advisory Committee for its advisory opinion. Any aggrieved party may appeal the Executive Secretary's decision to the Porter County Board of Zoning Appeals. Thereafter review by Writ of Certiorari shall proceed pursuant to IC 36-7-4-1000 et. seq.

I. Variances

Variances from III. B shall impose upon the petitioner the burden to satisfy IC 36-7-4-918.5. All other variances shall be governed by IC-36-7-9-918.4.

J. Notification

Notification of variance petitions should be extended to include all governmental units having jurisdiction of the parcel of land is question.

DRAFT

PORTER COUNTY
WETLAND PERMIT

FEE _____
PD _____

Location of wetland(s) _____

Description of proposed changes to wetland/wetland boundary

Size of wetland(s) _____

Size of remaining wetland area _____

APPLIES N/A

_____	_____	Army Corp of Engineers permit
_____	_____	Environmental impact
_____	_____	Historic, aesthetic, cultural, scenic, ecological, recreational impact
_____	_____	Extent of public and private need for proposal
_____	_____	Availability of prudent alternative locations and methods to accomplish expected benefit
_____	_____	Cumulative effect of this and all other existing and anticipated activities to the affected watershed
_____	_____	Number of public and/or private supporting structures
_____	_____	Type of public and/or private supporting structures
_____	_____	Proximity to any waterway
_____	_____	Effect on neighboring land uses _____ _____
_____	_____	Economic effects _____ _____

Signature of owner _____

Address of owner _____

EXECUTIVE SECRETARY _____

Permit approved _____ Denied _____ Date _____

FEDERAL/STATE AGREEMENTS

STATEMENT OF UNDERSTANDING BETWEEN THE STATE OF INDIANA AND THE UNITED STATES COAST GUARD.

1. PURPOSE.

- A. To define the relationship between the State of Indiana and the United States Coast Guard in the conduct of the Recreational Boating Safety Programs including the mutual enforcement of laws relating to boating safety on waters within the concurrent jurisdiction of the State and the United States.

2. BASIC GUIDELINES

- A. The State and the United States exercise concurrent jurisdiction over those waters within the jurisdiction of the State which are also waters subject to the jurisdiction of the United States, except as to matters preempted by Federal law.
- B. The State has exclusive jurisdiction over those waters within the State which are not waters subject to the jurisdiction of the United States or waters of the United States.
- C. This understanding does not abrogate or limit the jurisdiction of the State or the United States.
- D. All vessels equipped with propulsion machinery not subject to the numbering laws of the State of Indiana are subject to the vessel documentation statutes of the United States.

3. TERMS OF UNDERSTANDING.

A. Law Enforcement.

- (1) The State has primary law enforcement responsibility concerning recreational vessels on the waters subject to the jurisdiction of the United States which are within the jurisdiction of the State. In these waters the United States has exclusive responsibility for the enforcement of vessel inspection and related Federal statutes applicable to non-recreational vessels.
- (2) The Boating Law Administrator of the State of Indiana and the Chief, Boating Safety Division of the Second, Coast Guard District shall coordinate or arrange for coordination of law enforcement patrols on waters subject to concurrent jurisdiction in order to avoid duplication of efforts in a given area at a given time so as to provide the most effective law enforcement possible with the vessels and personnel available.

3. A. (3) Numbering violations observed by the Coast Guard boarding officers will be referred to the State for processing. In addition, other recreational boating violations may be referred to the State of Indiana at the discretion of the District Commander.
- (4) Violations of Federal safety standards for boats and associated equipment detected by State marine law enforcement officers will be reported to the Coast Guard for disposition.
- (5) Violations of vessel inspection or related Federal laws by non-recreational vessels which are observed by State marine law enforcement officers will be reported to the Coast Guard for disposition.
- (6) When a complaint is made to the Coast Guard alleging an offense which is a violation of the State recreational boating laws or regulations, the Coast Guard will normally refer the complaint to the proper State or local authority in the appropriate State jurisdiction. Similarly when a complaint is made to the State of a violation of any vessel laws or regulations within the exclusive jurisdiction of the United States, the State will refer the complaint to the Coast Guard in accordance with State Law.
- (7) A Coast Guard boarding officer who has observed a violation of a State boating law or regulation or a State marine law enforcement officer who has observed a violation of vessel inspection law or regulations of the United States will generally be made available to testify for the State or Federal prosecution for the observed offense or to testify in any other proceeding relating to the violation.

3. B. Public Education and Training

- (1) The parties will cooperate in public educational and safety information programs. The State of Indiana will distribute the pamphlet "Federal Requirements for Recreational Boats" and other Federal boating publications as agreed upon through its home and field offices. The Coast Guard will distribute any State of Indiana applications and forms for motorboat numbering, State Vessel Casualty Report Forms, and such State boating pamphlets which are made available for that purpose by the State of Indiana. The Coast Guard will furnish to the Boating Law Administrator information concerning the time and place of public education courses within the State which are sponsored by the U.S. Coast Guard Auxiliary. The State will advise the Coast Guard of

3. B. (1) any public education courses offered to the boating public. The parties will, whenever possible, cooperate in developing a public boating safety education program to be used within the State.
- (2) The Coast Guard will provide boating safety instructor training for State law enforcement personnel through the National Boating Safety Course located at Reserve Training Center, Yorktown, VA. on an "as available" basis. Similarly, the State will provide on an "as available" basis to the Coast Guard, instructors and facilities for the training of Coast Guard personnel.

C. Boating Casualty Reports and Investigative Reports

- (1) The Boating Law Administrator will within 30 days notify the Chief of the Boating Safety Division, Second Coast Guard District of all boating casualties on navigable waters of the United States which involve fatalities and promptly forward him copies of the completed accident or casualty report. The Coast Guard will review the report and take appropriate action. Release of such reports to the public shall be processed in accordance with applicable law.

D. Search and Rescue

- (1) On the State waters which are not within the jurisdiction of the United States, the State has exclusive responsibility for providing search and rescue service. On waters subject to the jurisdiction of the United States, the State and the Coast Guard have joint responsibility. The Coast Guard will concentrate its activity primarily on coastal waters, harbor areas, and inland water areas in the vicinity of Coast Guard facilities. On other inland waters subject to concurrent jurisdiction, Coast Guard planners will look primarily to Search and Rescue facilities provided by the States and its political subdivisions.
- (2) The State and the Coast Guard agree to coordinate their search and rescue operations so that the most effective assistance will be rendered to those in distress on the waters within the State. To this end, each will encourage the establishment of mutual assistance and cooperative arrangements between Coast Guard and State facilities which are established in the same area. The competent authority for providing Federal search and rescue assistance on the Federal waters within the State is Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103. This authority is exercised through Rescue Coordination Center (RCC) St. Louis, MO, telephone number (314) 425-4617. The competent authority for exercising coordination of State search and rescue activities on the waters within the State is the Boating Law Administrator, telephone (317) 232-4014.
- (3) The State and the Coast Guard agree to actively support and participate in local search and rescue workshops, water safety councils, and other such organizations to foster closer cooperation and coordination among States and local agencies, Federal agencies, and others who have an interest or responsibility in search and rescue matters.

3 E. REGATTAS AND MARINE PARADES

- (1) The purpose of this portion of the agreement is to provide effective control over regattas and marine parades conducted on the navigable waters of the United States which are subject to the concurrent jurisdiction of the signatory State, so as to ensure safety of life in the regatta or marine parade area.
- (2) The Commander, Second Coast Guard District, is authorized by 46 U.S.C. Section 13109 to enter into agreements with State authorities to allow regulation by the State of such classes of regattas or marine parades on the navigable waters of the United States which are subject to the concurrent jurisdiction of the signatory State when, in the opinion of the District Commander, the State is able to regulate in such a manner as to ensure safety of life. This portion of the agreement between the Coast Guard and the signatory State is made pursuant to that authority.
- (3) For the purposes of this agreement, the terms "regatta" or "marine parade" both mean an organized water event of limited duration which is conducted according to a prearranged schedule.
- (4) For the purposes of this agreement the term "navigable waters of the United States" refers to those inland waters of the United States not subject to tidal influence, which are subject to the concurrent jurisdiction of the signatory State that have been either congressionally, judicially, or administratively determined to be navigable waters of the United States using the criteria set forth in 33 C.F.R. Part 2.05-25(b)(3). The navigable waters of the United States found in the Second Coast Guard District over which the signatory State exercises concurrent jurisdiction are listed in Appendix I to this agreement. It is understood that this list is subject to periodic revision. The Coast Guard will keep the signatory State informed of any such revision.
- (5) It is understood that this agreement neither abrogates nor forfeits the right of the Commander, Second Coast Guard District to regulate any particular regatta or marine parade when he deems such action to be in the public interest. Events of this type may include, but are not limited to:
 - (a) Those cases where a regatta or marine parade is of such size as to require patrols which the District Commander knows to be in excess of those available to the State or States involved, or
 - (b) Those events on waterways where commercial or other traffic will be significantly disrupted.
- (6) The authorization and regulation of regattas and marine parades upon the navigable waterways of the United States over which the signatory State exercises concurrent jurisdiction shall be managed as follows:
 - (a) The Coast Guard will expeditiously direct all applications for regattas and marine parades, with the exception of those identified in paragraph 5 above, to the appropriate agency of

- 3 E. (6) (a) the State in which the event or the majority of the event is to be held. The Coast Guard will consider the State agency to which the application is forwarded to be the lead agency in coordinating participation in, and the effective control of, the regatta or marine parade for which the application is submitted.
- (b) If the territory of more than one State is involved, then the State in which the majority of the event takes place will be responsible for coordinating participation by all affected States and will be called the coordinating State. The Coast Guard will determine in which State the majority of the event will take place from the information contained in the application.
- (c) The appropriate State agency will review each application forwarded to it using its own criteria prior to approving or disapproving the application.
- (d) The appropriate State agency, after approving a regatta or marine parade will then review all applications using the criteria found in 33 C.F.R. Part 100 to determine if Coast Guard or Coast Guard Auxiliary assistance is considered either appropriate or required. If Coast Guard or Coast Guard Auxiliary assistance is considered either appropriate or required, then the permit and all pertinent information, including a statement as to the number of State vessels assigned to the event, will be sent to the Chief, Boating Safety Division, Second Coast Guard District along with a request for the type of assistance desired, e.g.
- (i) The issuance or publication of: a Permit, a Local Notice to Mariners, or Special Local Regulations by the Coast Guard (Applications for which only the publication of a Local Notice to Mariners is desired must be received at the Second Coast Guard District office by Monday of the week prior to the week the event is to be held. Applications for which the publication of Special Local Regulations is desired should be received at the Second Coast Guard District office fourteen weeks before the event is to occur. This latter lead time requirement may be waived if there are justifying circumstances), or
- (ii) The assignment of: a Coast Guard Patrol Commander or a Coast Guard Auxiliary Vessel Patrol.
- (e) Upon receipt of the request for assistance, the Coast Guard will use the criteria found in 33 U.S.C. 1233 and in 33 C.F.R. Part 100 to determine appropriate Coast Guard actions.
- (f) In this regard it is understood that the exercise of the Coast Guard's authority to regulate and control regattas and marine parades is discretionary. Thus, notwithstanding a State's request or recommendation to regulate an event in a

- 3 E. (6) (f) certain manner, or for the Coast Guard to issue a Local Notice to Mariners or Special Local Regulations, the Commander, Second Coast Guard District retains the right to regulate and control, or to not regulate or control, all such events in any manner he determines to be appropriate. The Coast Guard will notify the signatory State of its intended determination in all such instances.

F. Aids to Navigation.

- (1) Neither party cedes by this agreement any of its powers and responsibilities to the other.
- (2) Indiana is hereby permitted to regulate maritime aids to navigation, including regulatory markers, on "State Waters for Private Aids to Navigation" on the condition that the aids conform to the Uniform State Waterway Marking System specified by Title 33, Code of Federal Regulations, Subpart 66.10 or the United States' lateral system of buoyage, Subpart 62.25.
- (3) This Agreement shall constitute a general permit in lieu of individual permits as prescribed in Title 33, Code of Federal Regulations, 66.01-5, for all maritime aids to navigation, including regulatory markers, which are in conformity with this agreement and the regulations in Title 33, Code of Federal Regulations, Subparts 62.25, 66.05, heretofore established or to be established in Indiana "State Waters for Private Aids to Navigation" as previously designated or hereafter designated by the Commandant. The extent of "State Waters for Private Aids to Navigation" may be modified from time to time as provided in paragraph 9.
- (4) Indiana will modify or remove, or cause to be removed, maritime aids to navigation, including regulatory markers, established under the authority of Indiana, without expense to the United States when so directed by Commander, Second Coast Guard District (hereinafter "COAST GUARD") subject to the right of Indiana to appeal any such order to the Commandant, whose decision shall be final.
- (5) COAST GUARD shall have the right to inspect the maritime aids to navigation authorized by this agreement at any time. Whenever possible prior notice shall be given by the Coast Guard to the State of Indiana to allow for a joint inspection.
- (6) Indiana shall furnish Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, MO, 63103, a listing of the location and type of aids to navigation established under the authority of Indiana prior to the effective date of this Agreement. COAST GUARD shall furnish Indiana a list of all private aids to navigation under COAST GUARD jurisdiction in the "State Waters for Private Aids to Navigation" of Indiana in existence prior to the effective date of this Agreement, which are to be transferred to the administration of Indiana. The list shall include the information referred to in 33 CFR 66.01-5 except for the chart or sketch noted in paragraph (a) of that section.

3 F. (7) Indiana shall inform the COAST GUARD of the nature and the extent of any change in Indiana maritime aids to navigation as soon as possible, preferably not less than 30 days in advance of making the changes.

(8) (a) In each instance in which a regulatory marker is to be established in "State Waters for Private Aids to Navigation" Indiana shall require the agency or political subdivision of the State establishing or authorizing the marker to obtain prior permission from the District Engineer, U.S. Army Corps of Engineers, having jurisdiction to regulate the waters involved, or a statement that there is no objection to the proposed regulation of the water area. A copy of the Corps of Engineers permit or letter of authority shall be provided by Indiana to COAST GUARD upon request.

(b) When a fixed or floating aid to navigation or a mooring buoy is to be established in "State Waters for Private Aids to Navigation" Indiana shall require the private party, agency or political subdivision establishing or authorizing the aid or mooring buoy to obtain prior permission or a statement of no objection from the District Engineer concerned.

(9) The Commandant may, upon his own initiative or upon request, revoke or revise any designation of "State Waters for Private Aids to Navigation" previously made by him. Written notice will be given to Indiana (mail address: Dept. of Natural Resources, 606 State Office Bldg. 101 N. Senate Ave. Indianapolis, IN 46204) of any such action contemplated by the Commandant. Except in an emergency, Indiana will be afforded a period of not less than 30 days from the date of the notice in which to inform the Commandant of Indiana's view in the matter before final action is taken to revoke or revise such designation.

(10) At any time after this agreement has been in effect for one year, Indiana may withdraw from this Agreement upon giving 90 days written notice to COAST GUARD. In this event, prior to withdrawal Indiana will furnish to COAST GUARD data such as that described in paragraph 6 in order to facilitate resumption of exclusive COAST GUARD supervision of maritime aids to navigation in navigable waters of the UNITED STATES within the State of Indiana ("State Waters for Private Aids to Navigation").

(11) By 1 September annually, Indiana will provide COAST GUARD a listing of all aids being administered in "State Waters for Private Aids to Navigation" as of 30 June of that year. This listing will indicate the number of each type of aid but need not include the detailed information required under paragraph 6 above.

3 G. General

(1) The State shall endeavor to conform its laws, rules, and regulations with Federal law to the fullest extent practicable, subject to the Federal preemption provisions contained in Title 46 U.S.C.. The Coast Guard and the State shall promptly furnish each other the text of any law, rule, or regulation having to do with numbering, equipping, or operation of vessels which are the subject of this Agreement and any administrative interpretations thereof.

- 3 G. (2) The Coast Guard and the State will provide to each other a copy of statistical and other data pertinent to the matters agreed to herein.

4. LIAISON

Liaison shall be as follows:

FOR THE STATE

Boating Law Administrator

FOR THE UNITED STATES

Chief
Boating Safety Division
Second
Coast Guard District

5. DURATION OF AGREEMENT

This agreement remains in effect until cancelled by either party. The cancelling party will provide the other party with at least 30 days notice. A representative of each party will review the agreement biennially for the purpose of ascertaining if any revisions are necessary. A copy of the review will be appended to each party's copy of the agreement.

(SIGNATURES)

State of Indiana

Captain Carroll Henneke

By Captain Carroll Henneke

TITLE Boating Law Administrator

DATE July 19, 1985

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD

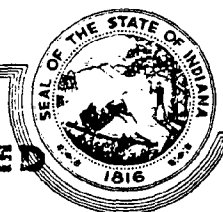
B. F. Hollingsworth

TITLE: Rear Admiral, U.S. Coast Guard
Commander, Second Coast Guard District

DATE: _____

STATE OF INDIANA

3



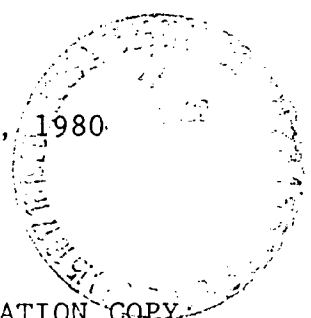
INDIANAPOLIS

OFFICES OF ATTORNEY GENERAL RECEIVED

THEODORE L. SENDAK, ATTORNEY GENERAL
219 STATE HOUSE
46204

JUL 19 1980

November 25, 1980



INFORMATION COPY

Honorable Steve L. Collins
Indiana State Representative
Box 131, Ogden Dunes
Portage, Indiana 46368

OFFICIAL OPINION NO. 80-37

Dear Representative Collins:

This is written in response to your request for an opinion on the following questions:

1. Does the northern boundary line of Lake County correspond with the northern boundary line of the State of Indiana in the northwestern corner of the State of Indiana where Lake County lies?
2. What law enforcement agency is responsible for safety and law enforcement services on that portion of Lake Michigan which is north of the shoreline and south of the State boundary line?
3. In Lake County, does the jurisdiction of the cities located on the lakeshore extend into Lake Michigan and, if so, how far?

ANALYSIS

The Indiana Constitution, Article 14, Section 1, concerning establishment of boundaries of the State, reads:

"In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded, on the East, by the meridian line, which forms

(Page 1 of 5 pages)

Honorable Steve L. Collins
Indiana State Representative
November 25, 1980

OFFICIAL OPINION NO. 80-37

the western boundary of the State of Ohio; on the South, by the Ohio river, from the mouth of the Great Miami river to the mouth of the Wabash river; on the West, by a line drawn along the middle of the Wabash river, from its mouth to a point where a due north line, drawn from the town of Vincennes, would last touch the north-western shore of said Wabash river; and, thence, by a due north line, until the same shall intersect an east and west line, drawn through a point ten [10] miles north of the southern extreme of Lake Michigan; on the North, by said east and west line, until the same shall intersect the first mentioned meridian line, which forms the western boundary of the State of Ohio." (Emphasis supplied).

In 1980 O.A.G. No. 26, this office discussed the authority of the Indiana Department of Natural Resources to promulgate rules and regulations for the preservation, restoration and administration of historic sites and structures over that portion of Lake Michigan north of the shoreline and within the State boundary.

Indiana Code Section 17-1-6-2 describes the boundaries of Lake County as:

"The district of country within the following boundaries shall form and constitute the county of Lake, to wit: Beginning on Lake Michigan where the center line of range seven [7] west intersects the same, thence south to the Marble Powers ditch, thence down the middle of the channel of the same to the beginning of the Williams ditch, thence down the middle of the channel of the same to the state line, thence north with the same to Lake Michigan, thence eastwardly with the lake to the place of beginning: Provided, The northern boundary of said county shall be the same as the northern state line." (Emphasis supplied).

Indiana Code Section 17-3-14-5 discusses the county police force and reads:

(Page 2 of 5 pages)

Honorable Steve L. Collins
Indiana State Representative
November 25, 1980

OFFICIAL OPINION NO. 80-37

"Each member of the county police force has general police powers; shall arrest, without process, all persons who, within his view, commit any offense, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated; shall suppress all breaches of the peace within his knowledge with authority to call to his aid the power of the county; shall pursue and commit to the jail of the county all felons; may execute all process directed to the sheriff of his county by legal authority; shall attend upon and preserve order in all courts of his county; and shall guard prisoners in the county jail. He shall serve all process directed to the sheriff of his county from a court or from the board of commissioners according to law." (Emphasis supplied).

Indiana Code Article 14-1, the Watercraft Safety Act, at Indiana Code Section 14-1-1-2 provides that the provisions of this Act [14-1-1-1--14-1-1-63] shall apply to all the public waters of this State and to all watercraft navigated or moving thereon. Indiana Code Section 14-1-1-43 provides that an operator of any boat involved in any accident or collision on public waters of this State resulting in injury or death to any person or damage to any boat or property to an apparent extent of fifty dollars [\$50.00] or more, shall give notice of such accident to the office of the county sheriff, state police post, or conservation office.

Indiana Code Section 14-3-4-9, as last amended by Acts 1978, P.L. 2, Section 1417, provides that the conservation officers of the Indiana Department of Natural Resources shall have the power to enforce the conservation laws, rules and regulations of this State, as well as all laws of Indiana. Also, Indiana Code Section 14-1-1-60, in pertinent part, reads:

"All peace officers of this state shall have the power and it shall be their duty to enforce the provisions of this act [14-1-1-1--14-1-1-63] and all lawful rules and regulations duly made and promulgated by the department thereunder." (Emphasis supplied).

The Indiana Constitution, Article 14, Section 2, reads:

(Page 3 of 5 pages)

Honorable Steve L. Collins
Indiana State Representative
November 25, 1980

OFFICIAL OPINION NO. 80-37

"The State of Indiana shall possess jurisdiction and sovereignty co-extensive with the boundaries declared in the preceding section [Indiana Constitution Article 14, Section 1]; and shall have concurrent jurisdiction, in civil and criminal cases, with the State of Kentucky on the Ohio river, and with the State of Illinois on the Wabash river, so far as said rivers form the common boundary between this State and said States respectively."

As to law enforcement in the area of Lake County north of the shoreline and extending to the northern State boundary line, Indiana Code Chapter 10-1-1, concerning the Indiana State Police Department, must also be considered. Indiana Code Section 10-1-1-10, which pertains to the powers of the officers and police employees, in pertinent part, reads:

"...The police employees of the department shall prevent and detect offenses, apprehend offenders, enforce the laws, and perform other duties imposed upon them by law, and to this end, police employees of the department [Indiana State Police] have in any part of the state the same powers with respect to criminal matters and the enforcement of the laws relating thereto as sheriffs, constables, and police officers have in their respective jurisdictions,..." (Emphasis supplied).

See also 1970 O.A.G., No. 44, p. 115.

As to the jurisdiction of the cities located on the lake-shore in Lake County, 1980 O.A.G. No. 26, supra, stated in part:

"A city has no title to either the waters of Lake Michigan or the bed of Lake Michigan. Garner v. City of Michigan City, 453 F. Supp. 33 (Ind. 1978)."

CONCLUSION

It is, therefore, my Official Opinion that:

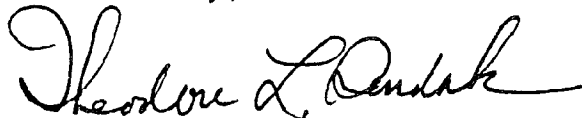
(Page 4 of 5 pages)

Honorable Steve L. Collins
Indiana State Representative
November 25, 1980

OFFICIAL OPINION NO. 80-37

- (1) Pursuant to Indiana Code Section 17-1-6-2, the northern boundary line of Lake County corresponds with the northern boundary line of the State of Indiana.
- (2) The Indiana State Police have concurrent jurisdiction with the Lake County Sheriff as to criminal matters and the enforcement of the laws, north of the lakeshore to the northern State boundary line. The Watercraft Safety Act, Indiana Code Sections [14-1-1-1--14-1-1-63], provides that all peace officers of this State, which includes the conservation officers of the Indiana Department of Natural Resources, shall have the power and duty to enforce the provisions of that Act.
3. Lakeshore cities have no title to the waters or the bed of Lake Michigan.

Yours truly,

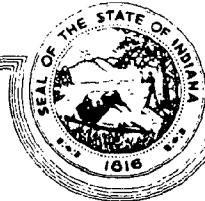


THEODORE L. SENDAK
Attorney General of Indiana

TLS:ria

(Page 5 of 5 pages)

STATE OF INDIANA



INDIANAPOLIS

OFFICES OF ATTORNEY GENERAL

LINLEY E. PEARSON, ATTORNEY GENERAL

219 STATE HOUSE

46204

April 17, 1990

The Honorable Paul J. Hric
Indiana State Representative
7039 Northcote Avenue
Hammond, Indiana 46324

RECEIVED APR 17 1990

INFORMATION COPY

OFFICIAL OPINION NO. 90-8

Dear Representative Hric:

This is in response to your request for an opinion concerning the following question:

House Bill No. 1089 which passed in the 1989 session stated that marinas in Lake County must provide access to Lake Michigan. They shall provide one free launching ramp for boats and eight percent (8%) of the parking free of charge. Prior to the marinas, people had access to Lake Michigan the year round. Fences have been built around marinas and the gates have been locked preventing year round use of the lakefront. When the gates are unlocked the marina still charges five dollars (\$5) for launching a boat. Can they do this?

ANALYSIS

You stated that your intention in introducing and in passing of House Enrolled Act No. 1089 was to give people access to Lake Michigan the year round which they had prior to the building of the marinas.

When reviewing a statute, the court's objective is to determine and implement legislative intent. Wallis v. Marshall County Com'rs (1989), Ind., 546 N.E.2d 843.

The Honorable Paul J. Hric
Indiana State Representative
April 17, 1990
Page 2

Language employed in a statute is deemed to have been intentionally used. Lawmakers are assumed to have used language expressive of their intention. Charles W. Smith and Sons Excavating, Inc. v. Litchfield (1985), Ind. App., 477 N.E.2d 308.

House Enrolled Act No. 1089, Indiana Code Chapter 14-4-14, effective January 1, 1990, reads:

Sec. 1. (a) This chapter applies only to a marina located in a county having more than two (2) second class cities.

(b) The State may not give money or other consideration to a marina unless the marina:

(1) provides a boat ramp without charge for access by Indiana residents to the waters served by the marina;

(2) provides access to marina property without charge for fishing by Indiana residents in the waters served by the marina; and

(3) dedicates at least eight percent (8%) of the total number of parking spaces at the marina for parking of vehicles (including boat trailers) by Indiana residents without charge.

SECTION 2. This act takes effect January 1, 1990.

Lake County is the only county in Indiana with more than two (2) second class cities.

The Indiana General Assembly, in the same way it has provided for marinas in Lake County, has now provided that if a marina receives money or other consideration from the State it must meet the requirements of Indiana Code Section 14-4-14-1.

The Honorable Paul J. Hric
Indiana State Representative
April 17, 1990
Page 3

Since Article 1, § 24 of the Constitution of Indiana prohibits passing a law that will impair the obligation of contracts, Indiana Code Section 14-4-14-1 would apply only to marinas receiving money or other consideration from the State after January 1, 1990. Also see Adult Group Properties, Ltd. v. Imler (1987), Ind.App., 505 N.E.2d 459.

Indiana Code Section 14-4-14-1 was enacted to give Indiana boaters and fishermen access to Lake Michigan. Ambiguities in the statutory language should be resolved in favor of the obvious legislative intent.

Indiana Code Section 14-4-15-1(b)(1) prohibits the State from giving money or other consideration to a marina unless the marina provides a free boat ramp for use by Indiana boaters. Indiana residents should not be denied access to the free boat ramp unless public safety considerations require a temporary closing of the ramp.

Indiana Code Section 14-4-14-1(b)(2) prohibits the State from giving money or other consideration to a marina unless the marina provides free access to marina property for fishing.

Indiana Code Section 14-4-14-1(b)(3) prohibits the State from giving money or other consideration to a marina unless the marina dedicates at least eight percent (8%) of the total number of parking spaces at the marina for the free parking of Indiana vehicles. The use of the phrase "total number" indicates a legislative intent to count all parking spaces reasonably related to the marina.

The State of Indiana owns the land lakewards of the ordinary high water mark on the Lake Michigan shore to the northern boundaries of the State in Lake Michigan.

Public rights to use Lake Michigan are governed by Federal and State statutes, regulations and rules.

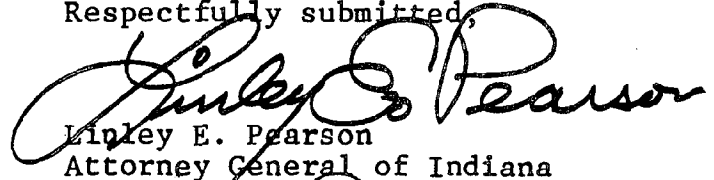
Public Law 163-1985 [IC 14-6-32] established the Lake Michigan Marina Development Commission to study various plans and recommendations that are proposed concerning marina development along the corridor. The Lake Michigan Marina Development Commission may receive grants and appropriations from federal, state and local governments. IC 14-6-32-12. The Indiana General Assembly, by P.L. 357-1989(ss), appropriated four million (\$4,000,000) dollars to the Lake Michigan Marina Development Commission to be used to match local funds.

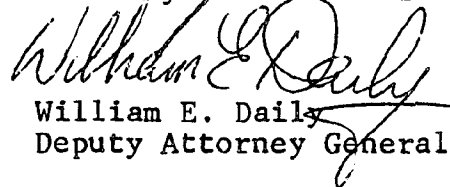
The Honorable Paul J. Hric
Indiana State Representative
April 17, 1990
Page 4

CONCLUSION

It is, therefore, my Official Opinion that a marina in Lake County that receives money or other consideration from the State of Indiana after January 1, 1990, must comply with Indiana Code Section 14-4-14-1 and must provide to Indiana residents without charge, a boat ramp for access to waters served by the marina, access to marina property for fishing in the waters served by the marina and eight percent (8%) of the total parking spaces at the marina for vehicles (including boat trailers). After January 1, 1990, the Lake Michigan Marina Development Commission and other State agencies are prohibited from giving money or other consideration to marinas in Lake County unless the marina provides assurance that Indiana residents will have (1) year-round access to a free boat ramp located at the marina, (2) year-round free access to marina property for fishing, and (3) free parking in at least 8% of the total number of parking spaces at the marina.

Respectfully submitted,


Linley E. Pearson
Attorney General of Indiana


William E. Daily
Deputy Attorney General

WED/cmr: 4208p

**AN OVERVIEW OF THE FEDERAL
COASTAL ZONE MANAGEMENT PROGRAM
AND THE IMPLICATIONS FOR INDIANA'S
PARTICIPATION IN THE PROGRAM**

Summary

Along Indiana's forty-five mile Lake Michigan shoreline, significant economic, social, and physical changes are occurring. A six city commission is developing marinas and local governments are anxious to use their shorelines to stimulate economic diversity. Steel mills are downsizing and citizens are urging preservation and restoration of the shoreline environment. It is apparent that some form of comprehensive shoreline planning is needed to deal with complex issues such as land use and reuse, conflicts between users, public access, preservation, natural hazards, and water quality problems.

The federal Coastal Zone Management Program offers an excellent and flexible program framework as well as technical and financial assistance through which Indiana could develop a shoreline management program.

In an effort to encourage the six non-participating states to prepare applications for admittance to the CZM program, (twenty-nine states already participate), the Congress has authorized program development grants for the first time in more than a decade. Congressman Peter Visclosky, 1st District of Indiana, which includes most of the Indiana shoreline of Lake Michigan, has indicated his interest in earmarking a program development grant in the fiscal year 1993 appropriation process. He needs a written request from Governor Evan Bayh by the end of January 1992. If Congressman Visclosky is successful, a program development grant could be available soon after October 1992. The 25% local match requirement can be met through the salaries of existing personnel.

Once in the program, Indiana would receive approximately \$525,000 annually to maintain its CZM program. Again, the local match can be derived from the salaries of existing personnel and funds provided by shoreline communities as match for low cost public access construction projects which would be funded through Indiana's CZM program.

Indiana has a head start in the development of its CZM application as a result of technical and planning documents prepared in the late 1970's when the state sought but failed to attain federally approved CZM status.

CZM state status would provide Indiana with federal consistency authority to prevent any unwanted federal government actions or activities in the coastal zone.

CZM state status would also provide Indiana with the ability to finance a wide variety of technical studies and capital improvements in the CZM zone.

Most importantly, the CZM program will provide the opportunity to plan and implement policies, programs, and projects to preserve, protect, develop, and where possible, to restore or enhance the resources of Indiana's coastal zone for this and succeeding generations.

Coastal Zone Management Program Overview

The coastline of the United States of America extends over 95,000 miles and borders three oceans and five of the world's largest freshwater lakes (the Great Lakes). Coastal climates range from tropical to arctic; coastal shorelines vary including rock, sand, erodible clay bluffs and marsh. Over 50 percent of the U.S. population, many major cities, and most heavy industry, including oil refineries and electric generating plants, are located in coastal areas.

In the late 1960's the U.S. Congress recognized that coastal resources were being severely stressed by competing and often conflicting uses. Without proper management, much of the natural resources would be lost for generations, if not permanently, and significant waterfront industrial and port sites would become obsolete or need to be redeveloped.

Congress provided the mechanism for establishing a national coastal resource management framework by passing the Coastal Zone Management Act of 1972, P.L. 92-583. The basic goal of the Coastal Zone Management Act (CZMA) is to encourage coastal states to voluntarily develop comprehensive management programs. The CZMA establishes a state-federal partnership in which states take the lead in managing their coastal resources, while the federal government provides financial and technical assistance and agrees to act in a manner consistent with the federally approved state management programs. The CZMA was reauthorized in 1976, 1980, 1986, and 1990. It is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

To date, 29 of the 35 states and territories, covering 94 percent of the U.S. coastline, including the Great Lakes shoreline, have received federal program approval and are implementing their programs. Of the six non-participating states, the states of Minnesota and Ohio are currently writing their applications for submission to the Secretary of Commerce. Indiana, Illinois, Texas, and Georgia are the remaining non-participating states.

From 1974 through 1979, the federal government provided funds to all 35 states, including Indiana, to partially support planning and development of coastal management programs. Indiana received over \$1.1 million in federal funds and invested the equivalent of \$350,000 in state funds to plan its shoreline management program. Indiana's participation in CZM ended in 1981 when the legislature failed to pass a bill authorizing the organizational structure necessary to implement the authorities of the proposed program.

In the ten years since CZM planning ended, significant economic, social, and physical changes have occurred in the coastal zone. The creation of the six city Lake Michigan Marina Development Commission has spurred marina development and caused recreational boating to become an important regional amenity stimulating tourism and related economic development. Cities, which had long ago relinquished their shorelines to industry, have become increasingly aware of the valuable resource at their front doors - Lake Michigan. And industry, particularly steelmakers, made significant investments in modernizing their plants, resulting in the

elimination of thousands of jobs and the abandoning of old industrial buildings and waste disposal sites. Thus, it has become apparent that some form of comprehensive shoreline planning is needed to deal with complex issues such as reclamation and reuse of former industrial sites, conflicts among various users of the shoreline, demand for public access and public amenities, recreational versus residential land use, preservation of remnant natural areas, water quality problems, shoreline erosion, and dredge disposal.

Thus, the purpose of this report is to review the Coastal Zone Management Program to determine if it provides the state of Indiana with an appropriate framework through which to manage the state's coastal resources.

Indiana's CZM Program

During Indiana's earlier CZM planning effort, several technical studies and planning documents were prepared as a part of the application process for seeking CZM state status. These studies and documents have been reviewed to assess the program that was envisioned by Indiana planners twelve or more years ago and to determine the extent of the planning effort that would be required to update existing materials and meet federal requirements for program approval.

In October 1978, the Indiana State Planning Services Agency described the goal of Indiana's proposed CZM program as follows:

"The goal of the Indiana Coastal Zone Management Program is to preserve, protect, develop, and where possible, restore or enhance the resources of the 45 mile coastal zone.

Many uses of significant local, regional, and national benefit now exist in the coastal zone. Between 1915 and 1976, however, these southern shores of Lake Michigan were a battleground on which an extensive struggle was waged over the question of development versus preservation. Compromise naturally resulted. A diversity of uses ranging from heavy industry to environmental preservation have all been accommodated in this relatively short and narrow corridor of land. Therefore, the Indiana CZM Program will not focus on establishing permissible new uses of the coastal zone, since there is room for none, but instead, on the goal of increasing the compatibility of these current uses and assuring that, in the process, both natural and man-made resources are sustained."

In light of the above stated goals, those associated with Indiana's earlier planning effort determined that the CZM program would be based on six areas of concern or issues which needed to be addressed. Those six program areas and a list of goals for each were described as follows in earlier planning documents:

I. Access to Coastal Recreational Resources

- A. Improve and enhance existing access to lake-related public recreation facilities.
- B. Increase opportunities for such access for recreation in areas where they are lacking.
- C. Focus the enhancement of access in the areas of swimming and related beach activities, hiking, fishing (including the primary tributaries), and boating.

II. Economic Development

- A. Promote the diversification of the region's economy within the Indiana Coastal Zone, especially in terms of urban water-fronts, tourism and ancillary recreational services.
- B. Foster the revitalization of the central business districts of the coastal zone's older communities.
- C. Promote, preserve, and enhance economic stability and efficiency in the coastal zone which will enhance the region's economy.
- D. Develop policy to improve the quality and management of air and water in the Indiana Coastal Zone in order to enhance their ability to support increased commercial and industrial uses.
- E. Promote the orderly development of the Port of Indiana/Burns International Harbor including expansion of the facilities for handling and storing a wider variety of cargoes.

III. Natural Hazards

- A. Minimize the dangers and impacts of shoreline erosion upon the health, safety and welfare in the coastal zone.

- B. Minimize the dangers and impacts of flooding upon the health, safety and welfare in the coastal zone.

IV. Fish and Wildlife

- A. Protect and conserve environmentally sensitive areas including wetlands, natural areas, wildlife habitat, and other significant terrestrial and aquatic environments in the Indiana coastal zone.
- B. Develop policies and regulations to enhance fisheries both in the lake, and in the major tributaries where stocking programs exist or are planned.

V. Energy Facility Siting

- A. Review and assess State policies and programs for energy facilities (generation, storage, and transmission) in the Indiana coastal zone.
- B. Develop State policy for the siting of energy-generating facilities such that Indiana can maintain and improve its self-sufficiency in the area of electric power generation.
- C. Develop measures mitigating associated environmental impacts.

VI. Dredge Disposal

- A. Identify the issues relating to dredge disposal from the five Indiana coastal zone harbors and other related dredging projects.
- B. Develop State policy of continued study and close coordination with federal agencies to provide a forum for the resolution of the issue.
- C. Consider concurrently the question of harbor deepening for proposed deep draft vessels and possible year round navigation of the Great Lakes - St. Lawrence Seaway.

Although these six program areas were relevant and timely twelve or so years ago, some are probably no longer appropriate as the basis for Indiana's shoreline management program. Thus, a renewed CZM effort would require a careful assessment of these program areas and other potential ones as they form the foundation on which the management program would be developed.

Overall, the federal CZM program has not changed significantly in the years since the late 1970's when Indiana strove to prepare its application to the U.S. Secretary of Commerce for inclusion in the program. The nine CZM program requirements remain much the same as they were in 1978.

In the following discussion, each program requirement is stated and then annotated with information gleaned from technical studies and planning documents prepared during Indiana's earlier CZM planning period. This exercise reveals that much of the technical work has already been accomplished although some of the documents will require updating.

CZM Program Requirements

I. Identification of the inland and seaward boundaries of the coastal zone subject to the management program.

Indiana's earlier CZM planning documents recommended a single management zone with special management units required by CZM and known as Geographic Areas of Particular Concern (GAPC). In House Bill 2047 sponsored by the late Senator Carolyn Brown Mosby while a member of the Indiana House of Representatives, Indiana's coastal management zone was described as follows:

- (1) to the north and west, by the boundaries of the state; and
- (2) to the south and east by:
 - (a) that thoroughfare known as Interstate 90 from the western border of the state until the point where it crosses the thoroughfare known as U.S. 12/20 just north of Interstate 90 interchange 43; then
 - (b) that thoroughfare known as U.S. 12/20 for approximately one (1) mile until it divides; then
 - (c) that thoroughfare known as U.S. 20 to the point where it intersects the thoroughfare known as the Porter/LaPorte County Line Road; then
 - (d) north on that thoroughfare to the point where it intersects that thoroughfare known as U.S. 12; then
 - (e) east on U.S. 12 to the Indiana/Michigan border.

H.B. 2047 also provided that the CZM program could operate in specific geographic areas of particular concern which were outside the boundaries delineated above if it was determined that they required "special management attention within the terms of the overall shoreline program because of their shoreline related value or characteristics."

II. A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

Indiana's earlier CZM planning documents reflect that a qualitative evaluation of the impacts of land and water uses on coastal resources was conducted to identify which uses were direct and significant. Four broad categories of uses were considered:

1. Industrial/commercial, including major steel production and commercial harbors;
2. Recreational/preservation, including parks, recreational boat harbors and natural areas;
3. Public services, including energy generating facilities, water supply, treatment facilities, and the transportation network; and
4. Residential areas.

These four broad categories of use were evaluated using the following parameters:

- o capability and suitability of resources types to accommodate existing or projected uses;
- o environmental impacts on coastal resources;
- o compatibility of various uses with adjacent uses or resources;
- o water dependency of the uses; and
- o evaluation of inland or other location alternatives.

A matrix was utilized to evaluate the four broad categories of uses and the report concluded that "the intensive concentration of varied land and water uses have a high degree of directed potential impact upon one another and upon the existing or potential environmental quality of the coastal resources. Only a few uses may offer the potential, over a long period of time, of deflection inland. What is truly amazing is the degree of compatibility and environmental quality which does exist in a shoreland in which land and water resources are already so extensively assigned and utilized."

III. An inventory and designation of areas of particular concern (such as natural areas, wildlife habitat, ports) within the coastal zone.

In 1979, the Natural Land Institute of the IDNR's Division of Nature Preserves cooperatively studied natural areas and habitats of endangered and threatened plants and animals in the coastal zone. The study report included:

1. an inventory and evaluation of natural areas;
2. location and identification of endangered and threatened plant and animal species.

In addition, the state developed criteria, categories, and a designation process for identifying and selecting areas of particular concern. Criteria included economic benefits, scarcity and/or sensitivity. In addition to designations recommended by the state, a public nomination process was developed.

IV. An identification of the means by which the state proposes to control the land uses and water uses referred in to in program requirement two (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

In the Legal and Administrative Inventory prepared for the State of Indiana by a legal consultant in 1976, it is concluded that current federal, state, and local laws are sufficient for coastal management with respect to water and water related activities. However, "they would appear to be somewhat deficient and diffused with respect to land and land use activities."

In 1981, the State Planning Services Agency prepared a "Legal Analysis of Statutory and Administrative Authority for CZM Program Policies." The analysis examined Indiana law relative to the six proposed program areas:

- o Access to Coastal Recreational Resources
- o Economic Development
- o Natural Hazards
- o Fish and Wildlife
- o Energy Facility Siting, and
- o Dredge Spoil Disposal

The legal analysis discussed the powers and authorities in current law which could be utilized to achieve the stated goals of each proposed program area. Although there is an occasional reference to the need to clear up an ambiguity in a specific statute, the analysis concluded that the state had sufficient authority to attain the proposed program's goals.

Clearly, this legal analysis requires revision to reflect changes in the law in the past decade. Additionally, if program areas change, the statutory basis for addressing any new program areas will have to be researched.

V. Development of broad guidelines on priorities of uses in particular areas including specifically those uses of lowest priority.

Indiana's earlier CZM planning stated that its recommended priorities of use "are derived from and are compatible with the goals and objectives of the Indiana Coastal Zone program" and address the six program areas. Broad guidelines were developed to determine uses of high priority and uses of low priority.

Coastal dependent uses were considered high priority and included the following:

- o boat harbors, launch ramps
- o fisheries, stocking and spawning areas, fishing piers
- o erosion and storm protection facilities including beach nourishment
- o harbors, channels, navigation aids and improvements, dredging and disposal sites
- o port terminals
- o industries and utilities which must load and off-load cargo from deep-draft vessels
- o water supply corridors

Uses of low priority were deemed to be those uses which are not coastal dependent. A list of the low priority uses included the following:

- o forms of recreation which can be deflected inland
- o agriculture
- o transportation improvements which do not provide access to coastal dependent uses
- o facilities and operations for mineral exploration and extraction including mining of coastal sand dunes

Here again, if any revisions or additions are made to the previously determined six program areas, some of the work prepared earlier to meet this requirement will need revision since uses of high and low priority may change with any changes to the basic program areas.

VI. A description of the organizational structure proposed to implement the management program, including the responsibilities and inter-relationships of local, areawide, state, regional, and interstate agencies in the management process.

Indiana's CZM planners of more than a decade ago evaluated four management alternatives including:

1. Coastal Zone Management Authority - a separate autonomous organization at the state level with a director and appropriate staff.
2. Coastal Zone Management Commission - a twenty-three member commission which would oversee the operation of the Indiana CZM program and make necessary policy related to the plan. Program staff support would be provided by the State Planning Services Agency.
3. Lead Agency/Network - two options were evaluated within this organizational structure:
 - a. Indiana Coastal Zone Management Bureau within the Indiana Department of Natural Resources - an advisory board would consult with the Bureau director and staff on the CZM plan and program.
 - b. Executive Council of the State Planning Services Agency - The twelve member Executive Council which includes the governor, lieutenant governor, state budget director, and four legislators would serve as the policy and oversight body utilizing the State Planning Services Agency staff.
4. Regional Commission - the Coastal Zone Management Agency would be a special office within NIRPC operating simultaneously, but using NIRPC staff while under the supervision of the Executive Council of the State Planning Services Agency. The CZM agency's director would be appointed by the governor.

Planning documents reflect that the Lead Agency/Network model was selected as the preferred management structure with the State Planning Services Agency as the lead agency. It was recommended that:

1. A new council would be created to provide policy direction. It would consist of representatives of major state agencies and elected officials from the three coastal counties.
2. A new coastal advisory committee would be established to advise the policy council. All local units of government, major interest groups and NIRPC would be involved.

Senator Mosby's bill, H.B. 2047, created a "Lake Michigan Shoreline Council" consisting of the following persons:

- (1) the director of the State Planning Services Agency;
- (2) the director of the State Department of Natural Resources;
- (3) the commissioner of the State Board of Health;
- (4) the executive director of the State Highway Commission;
- (5) the executive director of the State Department of Commerce; and
- (6) six (6) elected officials from the shoreline area appointed by the governor from the following units:
 - (a) four (4), not more than two (2) of who are from the same city, from cities with more than fifty thousand (50,000) population according to the most recent federal decennial census;
 - (b) one (1) from a city with a population between ten thousand (10,000) and fifty thousand (50,000) according to the most recent federal decennial census; and
 - (c) one (1) from a city or town with a population under ten thousand (10,000) according to the most recent federal decennial census.

Clearly, the earlier selected management structure will require reexamination in view of the fact that the State Planning Services Administration no longer exists. Indeed, Senator Mosby's bill authorized the director of the SPSA to serve as chairman. "He can vote only in case of a tie vote among other members."

It's interesting to note that the state of Michigan uses its seven member, governor appointed, Natural Resources Commission as its policymaking body. During the Michigan program's formative years, a citizen's advisory body known as the Citizens Shoreline Advisory Council advised the NRC on a wide range of issues, actively soliciting public involvement in the Coastal Management Program.

VII. A definition of the term "beach" and a planning process for the protection of, and access to areas of environmental, recreational, historical, aesthetic, ecological, or cultural value.

Technical Report No. 305, Public Access to the Indiana Shoreline, prepared by IDNR in 1979, appears to fulfill all of the requirements of this paragraph. However, this comprehensive report concludes that "a planning process to provide for and improve public access to the shoreline of Lake Michigan is not deemed warranted. Existing federal, state, and local legislative authorities and policies, if considered in light of documented recreational needs and administered effectively, are adequate to meet the demand for public access to the Indiana

shoreline of Lake Michigan".

It is apparent from public testimony at the shoreline meetings held in early 1991, Lake Michigan Marina Development Commission and other meetings where Lake Michigan shoreline issues are discussed, that the public feels that access to the Indiana shoreline remains inadequate. One very direct benefit of the CZM program in the states of Michigan and Wisconsin has come from the use of CZM funds to provide grants to local communities for low cost construction projects to improve public access to the shore.

VIII. A planning process for energy facilities likely to be located in or which may significantly affect the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

Technical Report No. 306, Energy Facility Siting Review, was prepared during Indiana's early CZM planning effort. It had two primary objectives:

- a. to review and assess state policies and programs for energy facilities (generation, transmission, and storage); and
- b. to identify and consider the issues likely to affect the coastal zone in view of future regional energy demands.

The report concluded that Indiana has no state policies or programs for energy facilities on its coastal zone, although several state agencies exercise some authority regarding energy facilities. Issues likely to affect the coastal zone in view of future energy demand are air quality, land availability, water quality and water availability.

IX. A planning process for assessing the effects of shoreline erosion and studying and evaluating ways to control, or lessen the impact of such erosion and to restore areas adversely affected by such erosion.

Technical Report No. 307, Shoreline Erosion Along the Indiana Coast of Lake Michigan, issued in 1979, concludes that "in view of the limited effort of erosion hazard areas and the localized nature of the problem within existing units of local government, a state established and administered shore erosion management program is not warranted." The report states that "a lack of data on erosion - recession rates in the Long Beach-Duneland Beach area has hindered efforts to estimate future hazards there, and a study of shore erosion for this area would provide valuable information." The report suggests that once armed with erosion data, the DNR could "estimate the longevity and effectiveness of retaining walls presently in use as erosion and flood controls. Then, a local shoreline management program could review and regulate construction which would be subject to erosion in a fifty year period."

In the late 1980's the state of Indiana contracted with the Great Lakes Coastal Research Laboratory at Purdue University in West Lafayette, to prepare a complete assessment of Indiana's Lake Michigan shoreline. The resulting report is considered one of the most comprehensive documentation of coastal conditions and dune-bluff recession for any state bordering on the Great Lakes.

The report concludes that "certain well detailed needs for coastal zone management become evident." Such a management program should include the following:

- a. Coastal Information System - to maintain current, as well as historic information on coastal recession, shore conditions, (profiles, beach width, sediment), structure positions and condition, and land use changes.
- b. Coastal Monitoring Program - to include annual aerial photography of the entire coast to be flown annually, beach and near shore bathymetry surveys every two to five years, beach profile surveys and site photography.
- c. Coastal Change Modeling - to develop a numerical model for predicting bluff recession and shoreline change due to lake level variation and storm wave impact.
- d. Beach Nourishment - to encourage beach nourishment as a primary alternative to remedy heavily impacted erosion zones.

The Federal CZM program could provide Indiana with the funds to implement some of the Great Lakes Coastal Research Laboratory's recommendations. Michigan and Wisconsin use their CZM funds for many of the coastal management activities recommended by the Purdue University study.

From the foregoing discussion of the federal CZM requirements and Indiana's earlier planning activities to satisfy those requirements and to achieve CZM state status, it can be concluded that excellent work, much of which is still timely and accurate, has been prepared. Some materials, however, will require some updating. In some instances, updating will simply be a matter of adding information that was unavailable ten or more years ago. In other instances, major premises, such as the six program areas and the organizational structure for implementing the program, will need to be thoroughly reexamined.

Federal Consistency

An important requirement of the federal CZM program is a provision known as "federal consistency." It requires that each federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone, must be carried out in a manner that is consistent with the approved state management program. Federal consistency authority empowers the state to review all actions in or affecting its coastal zone that are performed by, supported by, or licensed or permitted by the federal government to determine if these projects are consistent with the state's coastal zone management program and policies. Three basic types of federal activities would be subject to review by the designated state management agency: direct federal agency activities; federally licensed and permitted activities; and federal assistance to state and local governments.

At present, federal agencies such as the Corps of Engineers and Coast Guard do not consult with the state of Indiana when they undertake activities such as dredging or maintenance and emergency reconstruction of such structures as riprap, breakwaters, or bridge abutments in Indiana waters. An approved Indiana CZM program would require all federal agencies to confirm that their proposed activities are consistent with the state management program before those activities can proceed.

In instances where public or private entities, including individuals, are applying for federal permits to conduct regulated activities within the coastal zone, those proposed activities could not proceed unless and until they were found to be consistent with Indiana's coastal management program and policies.

Exclusion of Federally Owned Land

Lands in federal ownership are excluded from a state's coastal management program. Nearly fifteen miles of Indiana's forty-five mile shoreline is within the authorized boundaries of the Indiana Dunes National Lakeshore (IDNL). Of the fifteen miles, approximately eight miles are owned by the National Park Service and would therefore be excluded from Indiana's coastal management program.

Although excluded from the management program, federally owned lands must still meet the consistency review requirement. Thus, future development and maintenance projects within the Indiana Dunes National Lakeshore would be subject to review to determine their consistency with the state management program.

IDNL Superintendent, Dale Engquist, was asked to query his colleagues in Wisconsin and Michigan to determine how CZM programs were viewed by federal park managers. Most responses were positive and typified by the following from the superintendent of Sleeping Dunes National Lakeshore in Empire, Michigan:

"When the State of Michigan received its Coastal Zone Management status over all of its Great Lakes shoreline areas, the National Park Service became subject to review, by the State, for all future development projects in the shoreline areas of Sleeping Bear Dunes. We do not consider this to be an unworkable or negative relationship in any way. Under proprietary jurisdiction and considering the large number of private inholding within the park, it lends an extra measure of confidence to managers and interested citizens by knowing that this level of review is in place.

Our overall opinion of this process and situation in Michigan is that it is a good one and will continue to help in our management and development programs."

Funding

Two types of funding are available through the Federal Coastal Zone Management program:

- o program development grants
- o program administration grants

Program Development Grants

The Coastal Zone Management Act Reauthorization Amendments of 1990 reauthorized program development grants through fiscal year 1993. Such a grant may be made to any coastal state without an approved program if the coastal state demonstrates that the grant will be used to develop a management program meeting CZM requirements.

The amount of any such grant may not exceed \$200,000 in any fiscal year and requires state matching funds according to a 4 to 1 ratio of federal to state contributions. No more than two grants may be awarded to any coastal state. The CZM appropriation bill for fiscal year 1992 earmarks program development grants of \$200,000 each for Ohio, Minnesota, and Texas.

Representative Peter J. Visclosky of Indiana's 1st Congressional District, has indicated his willingness to seek a program development grant for Indiana in the fiscal year 1993 appropriation process. In a January 16, 1992 letter, Congressman Visclosky says, "If the State of Indiana is, in fact, interested in participating, as would be evidenced by written affirmation from the Governor's office, I would be happy to support the state's efforts in the Appropriations Committee." As preparation for the fy 1993 appropriations bill has already begun, Congressman Visclosky needs to hear from Indiana by the end of January. If he is successful, those funds could be available after October 1, 1992.

Program Administration Grants

Once state management programs have been approved by the U.S. Secretary of Commerce, they become eligible for annual program administration grants.

Funds are allocated by a formula of shoreline mileage and coastal population, with minimum and maximum shares for the smallest and largest states. Based on a total funding level of \$35 million, which is approximately the amount that has been available for the past several years, Indiana would receive about \$525,000 annually once its program receives federal approval. States are required to match CZM funds based on specified federal-state ratios. The federal-to-state funding ratios are 4 to 1 for the first fiscal year, 2.3 to 1 for second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

Many state programs meet part of the matching requirement by providing grants to local entities for small construction projects and requiring the grant recipient to provide the non-federal match.

Two New CZM Programs

The 1990 Coastal Zone Management Act Reauthorization Amendments of 1990 established a new program for controlling nonpoint source pollution and a grant program to encourage improvements to existing CZM programs.

Coastal Nonpoint Pollution Control Program

CZM states will be required to develop and implement certain management measures to restore and protect coastal waters as a result of the new Coastal Nonpoint Pollution Control Program. Management measures are described as economically achievable measures for controlling the addition of pollutants to coastal waters through the application of the best available nonpoint pollution control practices, technologies, processes, site criteria and operating methods.

By 1995, CZM states must submit their nonpoint source pollution management programs to NOAA. Funds have been authorized to assist in meeting this new program requirement. The current CZM appropriation contains \$2 million for fiscal year 1992. It is anticipated that the Congress will provide funds to implement the coastal nonpoint source pollution prevention programs in each CZM state when it reauthorizes the Coastal Zone Management Act.

Coastal Zone Enhancement Grants

The 1990 Amendments also establish a new enhancements grant program to encourage states to continually improve their CZMA programs in one or more of eight identified areas. The Coastal Zone Enhancement Objectives include: (1) coastal wetlands management and

protection; (2) natural hazards management (including the potential for Great Lakes level rise); (3) public access improvements; (4) reduction of marine debris; (5) assessment of cumulative and secondary impacts of coastal development; (6) special area management planning; (7) ocean resource planning; (8) siting of coastal energy and government facilities.

Grants will be made to coastal states to provide funding for development and submission of program changes that support one or more of the coastal zone objectives.

Related State/Federal Coastal Initiatives

In the following discussion, three distinct coastal initiatives are briefly described because of their possible implications for shoreline planning in Indiana.

Remedial Action Planning

The Indiana Harbor and Ship Canal, Grand Calumet River, and waters near the shores of Lake Michigan, have been designated one of forty-three polluted Areas of Concern (AOC) in the Great Lakes region. Under the Great Lakes Water Quality Agreement between the United States and Canada, a Remedial Action Plan (RAP) is being prepared to clean up and restore this heavily industrialized and environmentally degraded area. The Indiana Harbor and Ship Canal/Grand Calumet River RAP is being prepared by the Indiana Department of Environmental Management (IDEM) and a committee representing the community known as the Citizens' Advisory for the Restoration of the Environment (CARE).

What role might an Indiana CZM program serve in cleaning up and restoring the Indiana Harbor and Ship Canal/Grand Calumet River AOC? This question has immediate relevance because of the new provisions in the CZM Reauthorization Amendments of 1990 requiring states to develop and implement management measures to restore and protect coastal waters.

CZM funds are used by other Great Lakes States to finance small RAP construction projects, such as habitat restoration or enhanced public access to the shore, assist local governments in revising their land use plans, or prepare public education programs to build support for AOC cleanup and motivate residents to do their part to reduce harmful runoff and pollution.

Overall, remedial action planning and the CZM program can be highly complementary. The RAP process could focus on remediation measures and CZM resources could be devoted to planning and financing the restoration and reuse of the land.

Revisions to the National Flood Insurance Program

Legislation currently under consideration by the Congress, will revise the National Flood Insurance Program to include a comprehensive erosion management program. H.R. 1236, the National Flood Insurance, Mitigation and Erosion Management Act of 1991, passed the House of Representatives in May 1991. A nearly identical version, S. 1650, is nearing committee mark-up in the Senate.

The erosion management element of the legislation would direct the Federal Emergency Management Agency (FEMA) to map the coastal and Great Lakes' shorelines to establish the erosion hazard area. Based on FEMA's designation of high erosion areas, Indiana's shoreline communities would be required to adopt thirty and sixty year setback lines. No new development would be allowed lakeward of the sixty year setback line. Existing structures could be maintained and improved although improvements, defined as those improvements that would increase the value of the structure by fifty percent, would not be allowed.

With the progression of shoreline erosion, some existing structures could eventually reach the ten year setback line. At that time the property owner could submit a relocation claim.

Corps of Engineers Review of Indiana's Beachfront Management Program

In July 1991, the Indiana Department of Natural Resources received an inquiry from the U.S. Army Corps of Engineers. The IDNR was asked to provide statutes, administrative rules, regulations and guidelines that show that the state has established a beach front management program.

The Corps of Engineers' inquiry is a result of Section 309 of Public Law 101-640, the Water Resources Development Act of 1990, which provides:

"Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes--

- (1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 30 times the annual erosion rate;
- (2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;
- (3) provisions for the relocation of structures in erosion-prone areas;
- (4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and
- (5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development."

Two pending projects could be impacted if Indiana is penalized for its lack of a beach front management program.

1. Maintenance dredging in Michigan City's Outer Harbor is scheduled for 1993. The dredge spoils will be placed offshore of Mount Baldy.
2. The Indiana Shoreline Program is a fifty year program which will provide beach nourishment for a two mile portion of the shoreline from Michigan City to Beverly Shores. Authorized by the Congress in 1986, the final design was completed in 1990 and awaits approval by the Corps of Engineers. The project's present worth value is \$20 million.

Two Great Lakes CZM States

There is great diversity among the 29 states and territories taking part in the Coastal Zone Management Program. Beyond obvious differences in size, region and extent of present development along their coasts, there are major differences in political systems within the states and territories and differences in levels of public support for CZM activity. As a result, the nature and structure of CZM programs vary widely from state to state. Some states passed comprehensive legislation as a framework for coastal management, while others used existing land-use legislation as the foundation for their federally-approved programs or networked existing, single-purpose laws into a comprehensive umbrella for coastal management. In order to determine how CZM has been tailored to meet the needs of individual states, CZM programs in Michigan and Wisconsin were reviewed. In both states, only relatively small appropriations have been needed to match CZM dollars. Most of the match is derived from the salaries of existing personnel who are administering various elements of the state's CZM program.

MICHIGAN

Federal Approval Date: August 1978
Federal Funding FY88: \$1,883,000
Federal Funding FY89: \$1,934,000
Federal Funding FY90: \$2,014,000

Background

The Michigan Coastal Management Program (MCMP) was approved in August 1978. The Department of Natural Resources (DNR) is the lead state agency for coastal management. The Coastal Programs Unit, located within the DNR's Land and Water Management Division, is responsible for administration and management of the MCMP. Major authorities under which the MCMP is administered include: the Shorelands Protection and Management Act; the Great Lakes Submerged Lands Act; the Sand Dunes Protection and Management Act; the Goemaere-Anderson Wetlands Protection Act; the Inland Lakes and Streams Act; and the Michigan Environmental Protection Act. Michigan achieved CZM status by networking existing legislation.

The Natural Resources Commission establishes policy and guidelines for all DNR programs based on recommendations from a Citizens Advisory Committee and the Standing Committee on Shorelands and Waters. In addition, the Inter-Departmental Environmental Review Board and the Governor's Cabinet Committee on Environment and Land Use serve as forums for coordination and conflict resolution. The Citizens Shoreline Advisory Council provided policy input and solicited public comment during the program's formative years.

The MCMP's lakeward coastal boundary is the jurisdictional border that Michigan shares with Canada's Province of Ontario and the states of Minnesota, Wisconsin, Illinois, Indiana, and Ohio. The landward coastal boundary extends inland to include resources that affect the coastal zone and includes significant coastal features such as sand dunes, wetlands, and coastal lakes. The Michigan coastline is geographically unique because it consists of two large peninsulas and is surrounded by four of the five Great Lakes.

Some Program Accomplishments

Michigan effectively uses its CZM funds in a variety of ways as the following reflects:

- o Public Access - The Michigan Coastal Management Program awards funds to 30-40 communities a year for low-cost construction of projects. Each award amount ranges from \$3,000 to \$50,000. These grants provide considerable benefits to communities attempting to increase or improve public access opportunities. Funds have been used for a variety of projects including board walks, handicapped access, parking and lighting at fishing and beach access sites.
- o Permit Simplification - Michigan has at least seven state laws which regulate land and water activities. It will process about 6300 permit applications in 1991. In order to consolidate the processing of those permit applications, a "one stop shopping" process is employed through which a single application form is submitted to the DNR. A computer system purchased with CZM funds is used to maintain all data and track the application's processing. An initial review determines which statutes are involved, who should receive public notice of the application, and whether a Corps of Engineers' permit is also required. If a Corps permit is required, the same application form is sent to the Corps for its independent processing. Since 1984, Michigan has been granted federal

authority for Section 404 permits on all of the state's inland waters.

o Tools for Effective Decisionmaking

- o annual aerial photography and video of the shoreline to (1) monitor for violations, and (2) identify problems such as facilities that are failing
- o base line data monitoring system through which two universities monitor off shore bottom changes and recession rates for use in permitting decisions
- o 50% of the DNR salaries and equipment for coastal monitoring
- o computerized geographical information system which consolidates environmental quality and resource management data. The data base includes information on sensitive area, critical habitats, flood plains and sediment quality data from point sampling sites.
- o Educational Materials - Several booklets and technical documents have been developed and published on the issue of wetlands protection. The Wetland Protection Guidebook provides information on the Wetlands Protection Act, defines and discusses the value of wetlands, and explains Michigan's wetland permitting process. A brochure, Michigan Wetlands: A Guide for Property Owners and Homebuilders, is aimed at educating property owners and local officials who are involved in development. The MCMP developed the Wetland Determination Manual for Field Testing to provide written and operational guidance in identifying wetland characteristics and indicators used in making wetland determinations. The primary purpose of the manual is to formalize the wetland determination process practiced by DNR personnel in conducting wetland determinations.

o Funds for local governments

- o local zoning ordinance studies
- o marina planning studies

- o Funds for inventories of natural resources
 - o natural habitat inventories and migratory bird counts by local environmental groups

WISCONSIN

Federal Approval Date: May 1978
Federal Funding FY88: \$799,000
Federal Funding FY89: \$799,000
Federal Funding FY90: \$833,000

Background

Wisconsin has 820 miles of coastline in three major coastal stretches bordering on Lake Michigan, Green Bay, and Lake Superior. Forty-three percent of the state's population is in the 15 counties adjacent to these bodies of water. The Wisconsin Coastal Management Program's (WCMP) primary goal is to preserve, protect, develop, and, where possible, to restore or enhance the resources of Wisconsin's coastal area. To facilitate planning and implementation, eight specific issue areas are identified to address concerns such as severe erosion, polluted waters and limited recreational access. The specific areas are coastal water and air quality; coastal natural areas; community development; economic development; governmental relationships; public involvement; and coastal energy impacts.

The Coastal Management Section within the Department of Administration is the lead agency for implementing the coastal management program. The program is implemented under the policy guidance of the Wisconsin Coastal Management Council (WCMC), a decision-making body created by Executive Order. WCMC is responsible for setting the program's policies and making major program decisions. The Council is also responsible for coordinating Federal, state and local coastal activities and for advising the Governor on coastal matters.

Since 1980, the Council has been organized to include legislators and representatives of state agencies, local governments, tribal governments and interested citizens. The 33 regulatory responsibilities are primarily carried out through the Department of Natural Resources (lake bed activities, water quality, and fish and game management), the Department of Transportation (harbor assistance), the Public Service Commission (power plant and transmission line siting), and county governments (shoreland zoning). The 15 coastal counties make up the landward coastal zone boundary. Counties are served by one of the three regional planning commissions, each of which has a coastal specialist on its staff.

Some Program Accomplishments

- o Public Access - More than fifty low cost construction projects for improved public access to the state's shoreline have been funded in the past five years. Some examples include the Manitowoc pedestrian walkway along the City's waterfront, a parkway and walkway for Green Bay, a walkway and viewing area at Sturgeon Bay, a coastal trail and visitor center for the Village of Ephraim, and a floating dock at the Kewaunee Marina.

- o Shoreline Redevelopment - A Waterfront Action Group, comprised of representatives of state agencies, was established to encourage shoreline redevelopment and coordinate funds for projects.

CZM funds were used to plan and construct a 150 slip marina and waterfront park on abandoned land in the City of Kewaunee. The development of this waterfront site catalyzed significant private investment during 1988 and 1989, in addition to attracting over 100,000 tourists annually.

A boat launch facility and transient docks in Racine were build in 1988-89 using CZM funds. As a result of this effort, a larger project was then implemented by the public and private sector including: the Racine Festival Project Site, which includes a 900 slip marina, support facilities, a 17 acre county park, and a public boating facility. Local officials credit the original "seed" CZM funding for providing the impetus for this larger project.

- o Permit Simplification - The state Legislature recently authorized the establishment of a general permit program and procedures for its implementation. It is estimated that when implemented, the program will result in a savings of field staff time by 13 percent. The state initiated a study to assess DNR's capability of assuming the dredge and fill permit authority under Section 404 of the Clean Water Act.
- o Coordination with Remedial Action Plans - CZM funds were used to finance a number of technical studies related to toxic sediments and public participation efforts as a part of two separate remedial action plans for contaminated harbors.

Conclusions

- (1) Existing and emerging Indiana shoreline problems and opportunities require regional comprehensive planning and policymaking. Such issues as demand for public access, conflicts between shoreline users, development pressures on remaining natural areas, development of marinas and related facilities, residential versus recreational development, changing land and water uses due to surplus industrial lands, the need for environmental remediation and restoration, shoreline erosion, tourism and economic development, can best be addressed through the planning and policymaking framework of a shoreline

management program.

- (2) The federal Coastal Zone Management Program offers a flexible framework and an annual grant through which Indiana could establish a shoreline management program. Approximately \$500,000 would be available annually and could be used for needed programs such as a coastal monitoring to collect data needed to make permitting, enforcement and construction decisions. Funds could also be used to provide grants to local communities for low cost public access projects and to assist with remediation and restoration of contaminated areas. Moreover, CZM could provide an opportunity to develop a shoreline management program that meets Indiana's needs.
- (3) The required matching dollars can be derived from the salaries of current state personnel who are engaged in coastal activities and a portion of their supervisors' time. Additionally, low cost construction grants to communities can be matched by the community thereby satisfying the matching funds requirement. Moreover, it is unlikely that an Indiana CZM program will require any new state appropriations. Indeed, the federal grant will enable the state to hire additional employees to assume program responsibility.
- (4) Preparation of Indiana's application to the U.S. Department of Commerce for CZM status could be financed by a program development (planning) grant of up to \$200,000, which could be available in October 1992. Representative Peter J. Visclosky has advised of his willingness to support the State's efforts for CZM status by earmarking the grant for Indiana during preparation of the fiscal year 1993 appropriation bill.
- (5) Several excellent technical and planning studies were prepared by the state of Indiana in the late 1970's as a part of earlier efforts to become a CZM state. Much of that material remains timely and useful and would provide a head start in the planning process leading to the preparation of a new application.
- (6) CZM's federal consistency requirements would provide Indiana with the authority to stop any unwanted federal government actions or activities in Indiana's coastal zone.
- (7) CZM status for Indiana would cause other federal funds to become available to Indiana. Conversely, Indiana's lack of a beach management program could result in a loss of certain federal funds.
- (8) Indiana's Area of Concern, the Indiana Harbor and Ship Canal and Grand Calumet River, are located, at least in part, within the proposed coastal zone. CZM funds could be used to finance technical studies and restoration projects to augment Remedial Action Plan resources.

Recommendation

The Federal Coastal Zone Management program offers a framework, process, and funding through which Indiana can comprehensively address the protection, use, and future of one of its most delicate and precious natural resources, the Lake Michigan coastal zone.

Indiana should advise Congressman Peter Visclosky and Senators Richard Lugar and Dan Coats of its interest in pursuing a federally approved coastal management program and ask them to support the state's efforts by earmarking a \$200,000 program development grant for fiscal year 1993.

Indiana should also advise the Office of Ocean and Coastal Resource Management of its interest in becoming a CZM state and its need for OCRM's technical assistance.

During the ten to twelve month period before the program development grant would be available, an intensive planning process should be conducted with IDNR staff and northwest Indiana interests - citizens, elected officials, industry/business, and environmentalists - to reexamine the previously proposed program areas, adding and deleting as input indicates. Every effort should be made to develop a program through which all interests, state, and local, will derive some benefit. Through a careful planning process involving close consultation with IDNR staff and considerable public input, a comprehensive and responsive program framework and public support for it will be in place by the time the program development grant is received. The technical activities necessary to prepare an application to the Secretary of Commerce can then begin.

COASTAL ZONE MANAGEMENT ACT OF 1972

(PL 92-583, 16 U.S.C. 1451 *et seq.*, October 27, 1972; Amended by PL 93-612, January 2, 1975; PL 94-370, July 26, 1976; PL 95-219, December 28, 1977; PL 95-372, September 18, 1978; PL 96-464, October 17, 1980; PL 98-620, November 11, 1984; PL 99-272, April 7, 1986; PL 99-626, November 7, 1986; PL 101-508, November 5, 1990)

SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that —

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destructions by man's alterations. [302(a) amended by PL 101-508]

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

[302(f) added by PL 96-464; amended by PL 101-508]

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great

Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters.

[Former 302(f)—(i) redesignated as (g)—(j) by PL 96-464].

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

[302(k)—(m) added by PL 101-508]

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the

coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

CONGRESSIONAL DECLARATION OF POLICY

[303 revised by PL 96-464]

SEC. 303. The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

[303(2) introductory paragraph amended by PL 101-508]

(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.

[303 (2)(B) amended, former (C)—(I) redesignated as new (D)—(J) and new (C) added by PL 101-508]

(C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters.

(D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new

commercial and industrial developments in or adjacent to areas where such development already exists,

(E) public access to the coasts for recreation purposes,

(F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

(G) the coordination and simplification of procedures in order to ensure expedited governmental decision-making for the management of coastal resources,

(H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking, [303(2)(I) amended by PL 101-508]

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies, and

[303(2)(J) amended by PL 101-508]

(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and

[303(2)(K) amended by PL 101-508]

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources; reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

[303(3) amended by PL 101-508]

(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title;

[303(4) amended and (5) and (6) added by PL 101-508]

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and

Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

DEFINITIONS

SEC. 304. For the purposes of this title —

(1) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705, as applicable). The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise.

[304(1) amended by PL 101-508]

(2) The term "coastal resource of national significance" means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value. [New 304(2) added by PL 96-464 and former 304(2)—(16) redesignated as (3)—(17) by PL 96-464]

(3) The term "coastal waters" means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

[304(4) amended by PL 96-464]

(5) The term "coastal energy activity" means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, on in close proximity to, the coastal zone of any coastal state:

(i) Any outer Continental Shelf energy activity.

(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deep-water port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be in close proximity to the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(6) The term "energy facilities" means any equipment or facility which is or will be used primarily —

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

(6a) The term 'enforceable policy' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

[304(6a) added by the PL 101-508]

(7) The term "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(8) The term "estuarine sanctuary" means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitute to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(9) The term "Fund" means the Coastal Energy Impact Fund established by section 308(h).

(10) The term "land use" means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307(g).

(11) The term "local government" means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state's coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term "management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(13) The term "outer continental shelf energy activity" means any exploration for, or any development or production of, oil or natural gas from the outer continental shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

(14) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the

Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

(15) The term "public facilities and public services" means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

(16) The term "Secretary" means the Secretary of Commerce.

(17) The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

[304(17) added by PL 96-464]

(18) The term "water use" means a use, activity, or project conducted in or on waters within the coastal zone.

[304(18) revised by PL 101-508]

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) In fiscal years 1991, 1992, and 1993, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state pursuant to this subsection, no subsequent grant shall be made to that coastal state pursuant to this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than two grants pursuant to this subsection.

(b) Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306.

[305 revised by PL 101-508]

ADMINISTRATIVE GRANTS

[306 revised by PL 101-508]

SEC. 306. (a) The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 1 to 1 for any fiscal year.

(2) For programs approved after enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

(b) The Secretary may make a grant to a coastal state under subsection (a) only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this title and has been approved in accordance with subsection (d);

(c) Grants under this section shall be allocated to coastal states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal states, maximum and minimum grants for any fiscal year to promote equity between coastal states and effective coastal management.

(d) Before approving a management program submitted by a coastal state, the Secretary shall find the following:

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303.

(2) The management program includes each of the following required program elements:

(A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

(G) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may

submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

(e) A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment with-

in that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 307.

[Editor's note: Sec. 6206(b) of PL 101-508 provides:

"(b) Additional Program Requirements.—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act), shall demonstrate to the Secretary—

(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and

(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act."

RESOURCE MANAGEMENT IMPROVEMENT GRANTS

[306A added by PL 96-464]

SEC. 306A. (a) For purposes of this section—

(1) The term 'eligible coastal state' means a coastal state that for any fiscal year for which a grant is applied for under this section—

((A) has a management program approved under section 306; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (I).

(2) The term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306(d)(9) because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

[306A(b)(1) amended by PL 101-508]

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b)(3) in the state's management program as areas of particular concern.

(3) The provision of access of public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b)(7).

(c) (1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2)—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contribution for the applicable fiscal year: 4 to 1 for fiscal 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

[Former 306A(d)(1) deleted and new (d)(1) added by PL 99-272]

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(c)(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(B) After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, United States Code, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

[307(c)(1) revised by PL 101-508]

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved state management programs.

[307(c)(2) amended by PL 101-508]

(3)(A) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's

certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

[307(c)(3)(A) amended by PL 101-508]

(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use or natural resource of the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until —

[307(c)(3)(B) introductory text amended by PL 101-508]

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

[(ii) revised by PL 95-372, September 18, 1978]

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

[307(d) amended by PL 101-508].

(e) Nothing in this title shall be construed —

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the

United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program with respect to that portion of the coastal zone management program affecting such inland areas.

(h) In case of serious disagreement between any Federal agency and a coastal state —

(1) in the development or the initial implementation of a management program under section 305; or

(2) in the administration of a management program approved under section 306; the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

(i) With respect to appeals under subsections (c)(3) and (d) which are submitted after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, the Secretary shall collect an application fee of not less than \$200 for minor appeals and not less than \$500 for major appeals, unless the Secretary, upon consideration of an applicant's request for a fee waiver, determines that the applicant is unable to pay the fee. The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).

[307(i) added by PL 101-508]

COASTAL ZONE MANAGEMENT FUND

[308 revised by PL 95-372; PL 101-508]

SEC. 308. (a)(1) The obligations of any coastal state or unit of general purpose local government to repay

loans made pursuant to this section as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to this Act as in effect before that date of enactment, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b).

(b)(1) The Secretary shall establish and maintain a fund, to be known as the 'Coastal Zone Management Fund' (hereinafter in this section referred to as the 'Fund'), which shall consist of amounts retained and deposited into the Fund under subsection (a).

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

(A) Expenses incident to the administration of this title, in an amount not to exceed—

(i) \$5,000,000 for fiscal year 1991;

(ii) \$5,225,000 for fiscal year 1992;

(iii) \$5,460,125 for fiscal year 1993;

(iv) \$5,705,830 for fiscal year 1994; and

(v) \$5,962,593 for fiscal year 1995.

(B) After use under subparagraph (A)—

(i) projects to address management issues which are regional in scope, including interstate projects;

(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 314;

(v) program development grants as authorized by section 305; and

(vi) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

(3) On December 1 of each year, the Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

COASTAL ZONE ENHANCEMENT GRANTS

[309 revised by PL 96-464; PL 101-508]

SEC. 309. (a) For purposes of this section, the term 'coastal zone enhancement objective' means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(b) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(c) The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the

criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

(d) Within 12 months following the date of enactment of this section, and consistent with the notice and participation requirements established in section 317, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

(1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

(e) A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

(f) Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 306 and 306A of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

(g) If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

TECHNICAL ASSISTANCE

[310 added by PL 101-508]

SEC. 310. (a) The Secretary shall conduct a program of technical assistance and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 309, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position

and rating, and the performance of any research, study, and technical assistance which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

(b)(1) The Secretary shall provide for the coordination of technical assistance, studies, and research activities under this section with any other such activities that are conducted by or subject to the authority of the Secretary.

(2) The Secretary shall make the results of research and studies conducted pursuant to this section available to coastal states in the form of technical assistance publications, workshops, or other means appropriate.

(3) The Secretary shall consult with coastal states on a regular basis regarding the development and implementation of the program established by this section.

PUBLIC HEARINGS

SEC. 311. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

[312 revised by PL 96-464]

SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2)(A) through (K), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

[312(a) amended by PL 101-508]

(b) In evaluating a coastal state's performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the

evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

[312(b) revised by PL 101-508]

(c)(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this title, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 315 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this title.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A).

(3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.

[312(c) amended by PL 99-272; revised by PL 101-508]

(d) The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A).

[312(d) revised by PL 101-508]

(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

COASTAL ZONE ACT

(f) [Repealed]
[312(f) repealed by PL 101-508]

[Editor's note: Section 9(b) of PL 96-464 provides:
“(b) Within two hundred and seventy days after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a)* of this section).”]

RECORDS AND AUDIT

SEC. 313. (a) Each recipient of a grant under this title or of financial assistance under Sec. 308 shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall —

(1) after any grant is made under this title or any financial assistance is provided under section 308(d); and

(2) until the expiration of 3 years after —

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided, have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this title.

[The second 313 was added by PL 101-508]

WALTER B. JONES EXCELLENCE IN COASTAL ZONE MANAGEMENT AWARDS

SEC. 313. (a) The Secretary shall, using sums in the Coastal Zone Management Fund established under section 308, implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

(b) The Secretary shall select annually—

(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

*Subsection (a) revised Section 312 of this Act.

(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this title; and

(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

(c) In making selections under subsection (b)(2) the Secretary shall solicit nominations from the coastal states, and shall consult with experts in local government planning and land use.

(d) In making selections under subsection (b)(3) the Secretary shall solicit nominations from coastal states and the National Sea Grant College Program.

(e) Using sums in the Coastal Zone Management Fund established under section 308, the Secretary shall establish and execute appropriate awards, to be known as the ‘Walter B. Jones Awards’, including—

(1) cash awards in an amount not to exceed \$5,000 each;

(2) research grants; and

(3) public ceremonies to acknowledge such awards.

ADVISORY COMMITTEE

SEC. 314. [Repealed]

[314 repealed by PL 99-272]

NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM

[315 head amended by PL 101-508]

SEC. 315. (a) Establishment of the System.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the ‘System’) that consists of—

(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

(b) Designation of National Estuarine Reserves.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

(1) the Governor of the coastal State in which the area is located nominates the area for that designation; and

(2) the Secretary finds that—

(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

(c) Estuarine Research Guidelines.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

(d) Promotion and Coordination of Estuarine Research.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research give priority consideration to research that uses the System; and

(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

(e) Financial Assistance.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

(A) to a coastal State—

(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

(iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or \$5,000,000, whichever amount is less.

[315(e)(3)(A) amended by PL 101-508]

(B) The amount of the financial assistance provided under paragraph (1)(A)(ii) and (iii) and paragraph (1)(B) may not exceed 70 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System.

[315(e)(3)(B) amended by PL 101-508]

(f) Evaluation of System Performance.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

(3) The secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evalua-

tion under paragraph (1) reveals that—

(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

(g) Report.—The Secretary shall include in the report required under section 316 information regarding—

(1) new designations of national estuarine reserves;

(2) any expansion of existing national estuarine reserves;

(3) the status of the research program being conducted within the System; and

(4) a summary of the evaluations made under subsection (f).

[315 amended by PL 96-464; revised by PL 99-272]

COASTAL ZONE MANAGEMENT REPORT

[316 head revised by PL 96-464]

SEC. 316. (a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved and a statement of the reasons for such action; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of this section; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal

zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this title in order of priority; (10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and (13) such other information as may be appropriate.

[316(a) amended by PL 96-464]

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

(c) (1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.

(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.

[316(c) added by PL 96-464]

RULES AND REGULATIONS

SEC 317. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 318. (a) There are authorized to be appropriated to the Secretary —

[318(a) revised by PL 96-464; PL 99-272; PL 101-508]

(1) such sums, not to exceed \$750,000 for each of the fiscal years occurring during the period beginning October 1, 1990, and ending September 30, 1993, as may be necessary for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$42,000,000 for the fiscal year ending September 30, 1991, \$48,890,000 for the fiscal year ending September 30, 1992, \$58,870,000 for the fiscal year ending September 30, 1993, \$67,930,000 for the fiscal year ending September 30, 1994, and \$90,090,000 for the fiscal year ending September 30, 1995, as may be necessary for grants under sections 306, 306A, and 309, to remain available until expended;

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending September 30, 1991, \$6,270,000 for the fiscal year ending September 30, 1992, \$6,552,000 for the fiscal year ending September 30, 1993, \$6,847,000 for the fiscal year ending September 30, 1994, and \$7,155,000 for the fiscal year ending September 30, 1995, as may be necessary for grants under section 315, to remain available until expended; and

(4) such sums, not to exceed \$10,000,000 for each of the fiscal years occurring during the period beginning October 1, 1990, and ending September 30, 1995, as may be necessary for activities under section 310 and for administrative expenses incident to the administration of this title; except that expenditures for such administrative expenses shall not exceed \$5,000,000 in any such fiscal year.

(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of carrying out the provisions of section 308, other than subsection (b), of which not to exceed \$150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section.

[318(b) amended by PL 96-464]

(c) Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 306 or 309.

[318(c) amended by PL 96-464]

(d) The amount of any grant, or portion of a grant, made to a State under any section of this Act which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.

[318(d) added by PL 99-626]

[*Editor's note:* In addition to amending existing sections of the Coastal Zone Management Act of 1972 and adding new sections to the Act, PL 94-370 includes the following sections:]

SEC. 15. ADMINISTRATION

(a) [Repealed by PL 95-219]

(b) [Superseded by subsection (b) of PL 95-219. See editor's note below.]

(c) [Repealed by PL 99-272]

SEC. 16. SHELLFISH SANITATION REGULATIONS.

(a) The Secretary of Commerce shall —

(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

(b) The Secretary of Health, Education, and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.

[*Editor's note:* In addition to repealing Section 15(a) of PL 94-370, subsection (b) of PL 95-219 amended Section 5316 of Title 5, United States Code as follows:

"(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(141) Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

(142) Assistant Administrators (3), National Oceanic and Atmospheric Administration.

(143) General Counsel, National Oceanic and Atmospheric Administration."]

[*Editor's note:* Sections 2 through 11 and 13 of PL 96-464 amended and have been incorporated into the existing language of this Act. Section 12 of PL 96-464 follows:]

SEC. 12. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) (1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation

of the Senate and to the Committee on Merchant Marine and Fisheries of the House, respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of sixty calendar days of continuous session, after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b) (1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise in the rulemaking power of the House of Representatives and as such they are deemed a part of the Rules of the House of Representatives but applicable only with respect to the procedure to be followed in the House of Representatives in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(3) (A) When a committee has reported a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged in the House of Representatives, and shall not be debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate in the House of Representatives on the concurrent resolution shall be limited to not more than ten hours which shall be divided equally between those favoring and those opposing such concurrent resolution and a motion further to limit debate shall not be debatable. In the House of Representatives, an amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c) (1) If a final rule of the Secretary is disapproved by the Congress under subsection (a)(2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e) (1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than twenty days after the decision of the court of appeals.

(3) [Repealed]

[12(e)(3) repealed by PL 98-620]

(f) (1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which the House of Representatives is not in session because of an adjournment of more

than five days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2); then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(g) For purposes of this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of _____, which final rule was submitted to the Congress on _____. (The blank spaces shall be filled appropriately.)"

(3) The term "rule" means any rule promulgated by the Secretary pursuant to the Coastal Zone Management Act (16 U.S.C. 1450 et. seq.).

(h) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1985.

[Editor's note: Sec. 6217 of P.L. 101-508 did not amend the Coastal Zone Management Act of 1972, but provides the following:

PROTECTING COASTAL WATERS

SEC. 6217. (a) In General. — (1) Program development. — Not later than 30 months after the date of the publication of final guidance under subsection (g), each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

(2) Program coordination. — A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313,

1329, and 1330) and with State plans developed pursuant to the Coastal Zone Management Act of 1972, as amended by this Act. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting coastal waters.

(b) Program Contents. — Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g), to protect coastal waters generally and shall also contain the following:

(1) Identifying land uses. — The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of —

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) Identifying critical coastal areas. — The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g).

(3) Management measures. — The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) and protect designated uses.

(4) Technical assistance. — The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

(5) Public participation. — Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) **Administrative coordination.**—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) **State coastal zone boundary modification.**—A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) **Program Submission, Approval, and Implementation.**—(1) **Review and approval.**—Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with the determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) **Implementation of approved program.**—If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b), through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 319 of the Federal Water Pollution Control Act; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act.

(3) **Withholding coastal management assistance.**—If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972, as follows:

(A) 10 percent for fiscal year 1996.

(B) 15 percent for fiscal year 1997.

(C) 20 percent for fiscal year 1998.

(D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States having programs approved under this section.

(4) **Withholding water pollution control assistance.**—If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 319 of the Federal Water Pollution Control Act, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

(A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.

(B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.

(C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.

(D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) **Technical Assistance.**—The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

(1) methods for assessing water quality impacts associated with coastal land uses;

(2) methods for assessing the cumulative water quality effects of coastal development;

(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) **Inland Coastal Zone Boundaries.**—(1) **Review.**—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the effective date of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972, and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) **Recommendation.**—If the Secretary, in consultation with the Administrator, finds that modifications to

the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) Financial Assistance.—(1) In general.—Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972, the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State program under this section.

(2) Amount.—The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

(3) State share.—The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) Allocation.—Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972, except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) Guidance for Coastal Nonpoint Source Pollution Control.—(1) In General.—The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) Content.—Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the

measures in reducing pollution loads and improving water quality.

(3) Publication.—The Administrator, in consultation with the Secretary shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after the date of the enactment of this Act; and

(B) final guidance pursuant to this subsection not later than 18 months after such effective date.

(4) Notice and comment.—The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) Management measures.—For purposes of this subsection, the term "management measures" means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(h) Authorizations of Appropriations.—

(1) Administrator.—There is authorized to be appropriated to the Administrator for use for carrying out this section not more than \$1,000,000 for each of fiscal years 1992, 1993, and 1994.

(2) Secretary.—(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4) of the Coastal Zone Management Act of 1972, as amended by this Act, not more than \$1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f).

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) not more than—

(i) \$6,000,000 for fiscal year 1992;

(ii) \$12,000,000 for fiscal year 1993;

(iii) \$12,000,000 for fiscal year 1994; and

(iv) \$12,000,000 for fiscal year 1995.

(i) Definitions.—In this section—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "coastal State" has the meaning given the term "coastal state" under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms "coastal waters", and "coastal zone" has the meaning that term has in the Coastal Management Act of 1972;

(4) the term "coastal management agency" means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972;

(5) the term "land use" includes a use of waters adjacent to coastal waters; and

(6) the term "Secretary" means the Secretary of Commerce.]

STEPS TOWARD AN INDIANA SHORELINE MANAGEMENT PROGRAM

When first conceived, this study's purpose was to gather basic data about Indiana's Lake Michigan shoreline and to recommend a program through which this diverse and ecologically unique area could be managed, protected and improved.

During the course of researching the Coastal Zone Management (CZM) program, one of the tasks contained in this study, staff of the Northwestern Indiana Regional Planning Commission (NIRPC) concluded that this federal program offered Indiana the necessary regulatory framework and incentives to properly manage its shoreline. Thus, although the entire shoreline report had not yet been completed, NIRPC staff felt that preliminary findings regarding the CZM program warranted the early attention of the Indiana Department of Natural Resources (IDNR).

Thus, in January, 1992, NIRPC staff met with representatives of the IDNR to apprise them of the opportunities and requirements of the CZM program and the potential for obtaining a grant in fiscal year 1993 to begin development of an Indiana Coastal Zone Management program.

NIRPC staff recommended that the planning and public involvement process that would ensue would be basic to the development of a shoreline management program and would not necessarily obligate the State of Indiana to participate in the CZM program if it was later determined that a State-local program was more advantageous to the State of Indiana.

Communication with 1st District Congressman Peter J. Visclosky and his staff confirmed the need for prompt communication from the State of Indiana as requests of the Commerce, Justice, State, and Judiciary Appropriations Subcommittee with jurisdiction over funding for the CZM Program had to be submitted by mid-February, 1992.

Thus, on January 31, 1992, Governor Evan Bayh wrote to Trudy Coxe, Director of the Office of Ocean and Coastal Resource Management (OCRM), expressing the state of Indiana's interest in obtaining a CZM program development grant (Attachment 1). A letter of the same date to Congressman Visclosky requested the Congressman's assistance (Attachment 2).

Several weeks later, Congressman Visclosky advised NIRPC that he had testified in support of funding for a management program development grant for the State of Indiana (Attachment 3).

Congressional Action

In September, 1992, the Congress agreed to a conference report which appropriated CZM funds, "Not to exceed \$800,000 for program development grants for the states of Georgia, Minnesota, Ohio, Indiana and Texas in accordance with the authorization." The Congressional Record of September 28, 1992, is Attachment 4.

Allotments to each eligible state for management program development grants under Section 305 of the Coastal Zone Management Act "take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other factors." Grants "shall not exceed \$200,000 in any fiscal year" and "shall require state matching funds according to a 4 to 1 ratio of Federal to State contributions".

Although Section 305 grants were authorized for fiscal years 1991, 1992 and 1993, no grants were made in 1991. Fiscal year 1992 grants were made to Ohio, Minnesota, Georgia and Texas. Texas received \$200,000, Ohio and Georgia received \$135,000 each, and Minnesota received \$130,000. Ohio, which has recently submitted its coastal management plan to the U.S. Secretary of Commerce for federal review and approval, may not require an additional program development grant in FY 1993. Minnesota, Georgia and Texas are expected to seek grants in 1993. However, no coastal state is eligible to receive more than two grants from section 305.

Indiana can reasonably expect a section 305 management program development grant of approximately \$130,000 in 1993. Although section 305 grants are not specifically authorized beyond 1993, the office of Ocean and Coastal Resource Management (OCRM) does have some funds that could be awarded for program development. These are funds recaptured from a CZM loan program. Specific authorization from Congress for a second management program development grant for Indiana in fiscal year 1994 should be pursued through the offices of Congressman Visclosky and Senators Lugar and Coats.

Letter of Intent

Conference Report language notwithstanding, each state that is interested in applying for section 305 funds must provide the OCRM with a letter of intent which includes the following:

1. Commitment of Governor

A commitment from the state's Governor in the form of a letter signed by the Governor that indicates his/her support for program development;

2. How Section 306 Requirements Will Be Met

A document summarizing how the state will meet the major requirements of section 306 which are:

- Boundaries
- Permissible land and water uses
- Areas of particular concern
- Means of state control
- Organizational structure
- Beaches and public access
- Energy facility siting
- Shoreline erosion
- Nonpoint pollution control

3. Assurances of Legal Authorities

Assurances that all of the necessary legal authorities to implement the state's program are in place or can be reasonably expected to be in place at the end of two years; and

4. Open Public Process

Assurances that the management program development process will be an open and public process.

A copy of the State of Minnesota's letter of intent is Attachment 5. Indiana should strive to submit its letter of intent as early as possible in 1994, although there is no specific deadline for submission. Two chapters contained in this report, An Overview of the Federal Coastal Zone Management Program and the Implications for Indiana's Participation in the Program and Summary of Federal, State and Local Statutes and Regulations Dealing with Land and Water Uses on the Indiana Shoreline of Lake Michigan, should be helpful in preparing items two and three of the Letter of Intent.

Following the letter of intent, an application for a program development grant is required. Copies of applications from Ohio and Georgia are Attachments 6 and 7, respectively. Georgia's application may have more relevance to Indiana's future planning process since Ohio's efforts are more advanced. Applications undergo review which takes approximately 75 days. Program development grants are awarded between July and October.

Proposed Schedule

February 15, 1993	Submit letter of intent
February, 1993	Request assistance from Rep. Visclosky and Senators Lugar and Coats to earmark a second development grant for Indiana for FY 1994
April 15, 1993	Submit application for FY 1993 grant
July/August, 1993	Receive FY 1993 program development grant
Spring, 1994	Submit application for FY 1994 program development grant
July/August, 1994	Receive second program development grant
Fall, 1995	Submit approvable Indiana CZM program

The State of Georgia's Section 305 grant application, (Attachment 7), provides some helpful guidance for Indiana in determining the scope of work for the first year of CZM

planning. The first four work tasks in the Georgia scope of work are described as public involvement, boundary, authority and organization, and federal consultation.

1. Public Involvement

The Governor will appoint a Coastal Advisory Council (CAC). The CAC will conduct monthly public meetings at various locations along the shoreline. The CAC will provide a mechanism for analysis of key issues, development of policy, and guidance to staff in the development of the CZM program.

2. Boundary

The coastal boundary and its justification as described in Georgia's previous CZM planning effort will be reviewed in light of current CZM rules and policies. A document will be provided identifying key issues, exempt federal lands, special management areas, rivers, and a map depicting the proposed Georgia Coastal Zone boundary line.

3. Authority and Organization

All relevant statutes, regulations, case law, and other local and state legal authority will be evaluated with respect to management of the coastal zone. Efforts will focus on enforceability of policies, reduction of conflicting authorities, and identification of any shortcomings, unwritten policies, and policies not adopted by law. Legislation will be introduced to correct any deficiencies or needs identified by the evaluation. Comprehensive legislation may be necessary; however, networking of existing authorities as a means of reducing additional legislation will be the preferred course of action.

4. Federal Consultation

Relevant federal agencies will be contacted and their input solicited in the development of the CZM program. They will be subject to the CZM programs consistency review and will, therefore, be involved in developing the list of actions requiring consistency review. Their concerns on matters of national interest will also be sought and federal agencies who have a major role on Georgia's coast will be contacted individually to solicit input.

These four work tasks plus initial work on the policies and general issue areas which will be incorporated into Indiana's Coastal Management Program could comprise Indiana's first year CZM planning effort.

Attachment 8, the executive summary from Ohio's draft Coastal Management Program, provides a succinct overview of Ohio's proposed program. The summary refers to forty-one specific policies which fall within nine issue areas as making up much of the substance of the Ohio Coastal Management Program. The nine issue areas are:

- Coastal erosion and flooding
- Water quality
- Water quantity
- Ecologically sensitive areas
- Energy and mineral resources
- Environmental quality
- Fish and wildlife management
- Ports and shoreline development
- Recreation and cultural resources

In closing, it is apparent that the apathy and inertia that thwarted Indiana's earlier efforts to achieve CZM state status are thankfully gone. The public meetings on the future of the shoreline and editorial comments in local papers regarding the meetings and their purpose reflected strong interest in protecting and properly managing Indiana's Shoreline on Lake Michigan.

All of the elements of a successful planning process are in place:

- Indiana Governor Evan Bayh and Department of Natural Resources Director Patrick Ralston support the exploration of a program to guide the use and protection of Indiana's Lake Michigan shoreline area;
- Under the leadership of Indiana Department of Environmental Management Commissioner Kathy Prosser, a small but dedicated staff in IDEM's Northwest office, and a policymaking committee known as the Citizens Advisory for the Remediation of the Environment, a remedial action plan is being developed for the northern part of Lake County, Indiana, including the coastal region and nearshore waters;
- The incoming Clinton Administration promises to focus more attention and resources on the environment;
- Citizens are concerned about public access to the shoreline and preservation and restoration of the natural environment, as evidenced by comments made during public meetings on the shoreline's future;
- Funding is available to assist Indiana in planning its management program.

Finally, changing shoreline uses and strong public support for the wise use and protection of Indiana's shoreline require a management policy, plan and strategy. The federal Coastal Zone Management program offers an opportunity through which to accomplish state and local goals.

ATTACHMENT 1



OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204-2787

EVAN BAYH
GOVERNOR

January 31, 1992

Ms. Trudy Coxé, Director
Office of Ocean & Coastal Resource
Management
National Oceanic & Atmospheric Administration
United States Department of Commerce
Washington, D.C. 20235

Dear Ms. Coxé:

I write in reply to your letter of January 9, 1992, advising me of the availability of fiscal year 1992 funds under Section 305 of the Coastal Zone Management Act to assist coastal states that do not have a federally approved coastal management program in the development of such a program. As your deadline for letters of intent is near, Indiana would prefer to seek a 1993 grant.

The Indiana Department of Natural Resources initiated a review of the Coastal Zone Management Program nearly a year ago and concluded that changing physical, social and economic conditions along Indiana's Lake Michigan shoreline require a comprehensive management plan and strategy.

Thus, we welcome the availability of a management program development grant to assist Indiana in preparing its coastal management program consistent with the Coastal Zone Management Act.

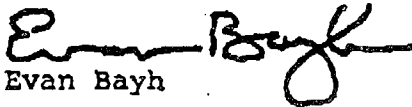
Please accept this letter as an expression of strong interest by the State of Indiana in obtaining a fiscal year 1993 program development grant. I have asked Indiana 1st District Congressman Peter J. Visclosky to lend his support to that request on the House Appropriations Committee.

The assistance of your staff in helping Indiana to meet the requirements for the grant will be very much appreciated. Please communicate with:

Patrick R. Ralston, Director
Indiana Department of Natural Resources
402 West Washington Street, Room 264
Indianapolis, Indiana 46204
(317) 232-4020

Thank you for communicating with me about the Coastal Zone Management Program. We look forward to working with you.

Sincerely,


Evan Bayh

EB/tlb

ATTACHMENT 2

RECEIVED FEB 12 1992



OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204-2787

EVAN BAYH
GOVERNOR

January 31, 1992

The Honorable Peter J. Visclosky
U.S. House of Representatives
420 Cannon Building
Washington, D.C. 20515

Dear Pete:

I write to advise you of the State of Indiana's interest in developing a coastal management program consistent with the requirements of the Federal Coastal Zone Management Act.

As you know, Program Development Grants are authorized through fiscal year 1993 in amounts up to \$200,000 for each state that is currently not participating in the program.

I am enclosing correspondence to Trudy Cox, Director, Office of Ocean and Coastal Resource Management, advising her of the State of Indiana's interest in seeking a fiscal year 1993 Program Development Grant.

I would be grateful for any assistance you are able to provide in the Appropriations Committee in support of a \$200,000 grant to assist Indiana in preparing its coastal management program.

Thank you for any help you can offer.

Sincerely,

A handwritten signature of Evan Bayh in dark ink.

Evan Bayh

EB/tlb

PETER J. VISCLOSKY
1ST DISTRICT, INDIANA

ATTACHMENT 3

RECEIVED APR 13 1992
330 CANNON BUILDING
WASHINGTON, DC 20515-1401
(202) 225-2461

COMMITTEE ON APPROPRIATIONS
CONGRESSIONAL STEEL CAUCUS
EXECUTIVE COMMITTEE
WHIP-AT-LARGE

Congress of the United States
House of Representatives
Washington, DC 20515-1401

215 WEST 35TH AVENUE
GARY, IN 46408
TTY-TDD SERVICE AVAILABLE
(219) 884-1177

PORTAGE CITY HALL
6070 CENTRAL AVENUE
PORTAGE, IN 46368
(219) 763-2904

April 2, 1992

Mr. James E. Ranfranz
Executive Director
Northwestern Indiana Regional
Planning Commission
8149 Kennedy Avenue
Highland, Indiana 46322

Dear Jim:

I wanted to give you an update on the Coastal Zone Management program development grant we have previously discussed.

Today, I testified before the Commerce, Justice, State, and Judiciary Appropriations Subcommittee to request a \$200,000 Coastal Zone Management program development grant. Knowing of the state of Indiana's support for inclusion in the Coastal Zone Management program, I will continue to work for this grant which will assist in developing Indiana's Coastal Zone Management program plan.

I look forward to continuing to work with you on projects important to the people of Northwest Indiana.

Sincerely,

Peter J. Visclosky
Member of Congress

PJV:rc
cc: Barbara Waxman

ATTACHMENT 4

September 28, 1992

CONGRESSIONAL RECORD—HOUSE

H 9557

logical Center and the SARSAT worldwide search and rescue system.

The conferees also are agreed that the polar-NEXT program should be delayed, downscaled, and brought into line with current budget projections and fiscal realities. The polar-orbiting satellite program should be reconfigured to ensure reliability and maintenance of current capability. A repeat of the GOES-NEXT procurement will not be tolerated.

Finally, the conferees fully endorse the Senate report language requesting the Department of Commerce and Office of Management and Budget to submit budget requests, beginning in fiscal year 1994, which contain detailed outyear budget projections for each satellite series.

NATIONAL OCEAN SERVICE

The conference agreement provides \$160,664,000 for National Ocean Service programs.

The conference agreement provides \$360,000 for the Charleston Harbor spoil area management plan. The goal of this project is to enhance the environmental quality of the harbor while maintaining the broad mix of uses of the harbor. The comprehensive plan will develop specific management measures for the harbor that can be incorporated into South Carolina Coastal Council's federally approved coastal zone management plan.

Of the funding provided for the Coastal Ocean Science Program, the conferees expect that \$672,000 will be allocated to the University of South Carolina School of Public Health and the Baruch Institute for continuation of the research on effective management of small, high-salinity estuaries, in collaboration with the National Marine Fisheries Service Southeastern Fisheries Laboratory in Charleston, South Carolina.

The conferees recommend \$450,000 for a new program to address the algal bloom crisis on the west Maui coastline in Hawaii. These funds are to be granted to the State of Hawaii to perform research and remediation.

The conferees note that no funding has been provided for the Prince William Sound Oil Spill Recovery Institute established by Section 5001 of the Oil Pollution Act of 1990 (33 U.S.C. 2731) due to the fact that the government has received monies from the Exxon Valdez settlement agreement that are to be used under that agreement for some of the very purposes for which the Institute was established. The conferees intend that funds for the Institute should be provided from monies received from the settlement agreement.

The conference agreement recommends \$175,000 for two programs at the New Jersey Marine Sciences Consortium. To address the problem of water degradation at small boat marinas throughout the United States, \$100,000 is included. The agreement provides \$75,000 to take advantage of a recently developed water quality model for an area of New York Harbor to assess the impacts of combined sewer overflow discharges on oxygen levels in the region.

The conference agreement provides a total of \$51,025,000 for Coastal Zone Management programs. Of this amount, \$41,334,000 is available for CZM grants (\$7,800,000 is provided through the appropriation "Coastal Zone Management Fund"). The conferees intend that the \$7,800,000 appropriated from the CZM fund be used for the following purposes:

- (1) Not to exceed \$600,000 for program development grants for the States of Georgia, Minnesota, Ohio, Indiana, and Texas in accordance with the authorization;
- (2) \$7,000,000 for program grants to states; and
- (3) any remaining funds in accordance with the authorization.

Funds for CZM program management are provided in the Operations, Research and Facilities account.

The conference agreement includes \$400,000 for three additional permanent buoys for the Chesapeake Bay Observing System network.

The conference agreement also includes \$500,000 for the Institute for Marine Engineering in St. Petersburg, Florida, to enhance the transfer of oceanic and atmospheric technology to the maritime industry and for instrumentation to ensure the development of the capability for necessary computer modeling of global climate change, hydrology, currents, and atmospheric data. Such instrumentation will be utilized for, among other things, the measurement of along-shore sediment transport; for monitoring of estuaries; and for the enhancement of ground-truthing satellite weather and oceanic data collection. The conferees note that the Institute has been successful in securing 60 percent matching funds from the State and the private sector for its programs and offers NOAA a unique opportunity to integrate nine existing academic and research programs and centers in the important Tampa-St. Petersburg marine coastal area in the Gulf of Mexico.

The conference agreement includes \$7,000,000 for the National Marine Sanctuary program. The conferees intend that within the funds provided, the Monterey Bay Sanctuary and the Stellwagen Bank Sanctuary be funded at the full budget request level for fiscal year 1993.

Further, the conferees intend that the Gulf of the Farallones and the Cordell Bank Marine Sanctuaries be funded at \$300,000 above the budget request. The Gulf of the Farallones and Cordell Bank National Marine Sanctuaries host the largest seabird and marine mammal breeding colony in the continental United States. This area, which is among the five most productive marine regions in the world, has received both national and international recognition of its biological and human resources. However, these resources are facing significantly increasing threats to their survival. Current symptoms of these threats are 50 percent declines in populations of several seabirds, as well as the federal listing as threatened of local Stellar sea lions and the winter run of Chinook salmon.

The additional funding provided should be used to: assess and monitor contaminant uptake in seabirds and marine mammals, including the radioactive waste from the Farallon dumpsite and proposed dredge spoils from San Francisco Bay; establish an electronic tracking system which will help prevent or minimize oil spill mortality for seabirds and marine mammals; and establish a seabird-fishery monitoring program to help develop and maintain a sustainable fishery program. This would result in significant benefits, including assessment of pollution for human health; a clean, sustainable fishery; a safe and efficient shipping industry; and the protection and restoration of wildlife.

NATIONAL MARINE FISHERY SERVICE

The conference agreement provides \$217,926,000 for the National Marine Fisheries Service (NMFS).

The conferees expect that not less than \$365,000 of the funds provided for the aquaculture program be used to continue support of the Newport Marine Science Center in Oregon and that these funds be provided as expeditiously as possible.

The conference agreement would allow approximately \$4,400,000 to remain in the Belton-Kennedy fishery development grants program. The conferees urge that a high priority be given to research designed

to encourage investment in promising growth areas, including reducing bycatch, development of underutilized species products and markets; additional uses for fish by-products and environmentally sound methods for processing fish waste; and improved aquaculture and hatchery techniques.

The conferees have included \$4,100,000 for Alaska groundfish monitoring, of which \$1,200,000 shall be available only for crab management and research, and of which \$300,000 shall be available to the Bering Sea Fishermen's Association to prepare business plans needed by western Alaskan villages applying for community development quotas (CDQ's) available under the inshore-offshore proposal.

Of the amounts included to implement the Marine Mammal Protection Act, \$1,500,000 shall be available to fund marine resource observers in the North Pacific fisheries. In addition, \$500,000 shall be available only for harbor seal research by the State of Alaska and \$500,000 shall be available only for harbor porpoise research in the Gulf of Maine pursuant to the recommendations of the Gulf of Maine harbor porpoise recovery team.

Of the funds provided for Stellar sea lion recovery, \$750,000 shall be available only for the State of Alaska Department of Fish and Game.

The conferees recommend \$3,750,000 for the marine fisheries initiative (MARFINI). Of this amount, not less than \$980,000 is to continue the South Atlantic phase of the program.

The conferees have included an increase of \$1,100,000 for support of, and transfer to, international fisheries commissions. Of this amount \$200,000 is for the Great Lakes Fishery Commission specifically to assist the State of Vermont with sea lamprey control in Lake Champlain and \$500,000 to assist in general sea lamprey control programs in the Great Lakes; \$400,000 is for the Pacific Salmon Commission to carry out its obligations under the Pacific Salmon Treaty with regard to the transboundary rivers—the Taku, Stikine, and Alsek Rivers.

The conference agreement includes \$500,000 for the Sacramento River Winter Run Chinook Salmon Captive Broodstock Program. The Sacramento River winter run Chinook salmon have been listed as threatened under the Federal Endangered Species Act by the National Marine Fisheries Service. The goal of the captive breeding program is to rear winter-run Chinook salmon under controlled conditions until they become reproductively mature adults. Mature adults would then be used as hatchery broodstock for continued propagation of the species.

The Captive Broodstock Program would recover winter run salmon by holding 1,000 juvenile salmon at Coleman National Fish Hatchery instead of releasing them into the wild, transferring the juvenile fish to fresh and salt water hold facilities, holding the fish at these facilities for three years until maturity and returning the fish to Coleman National Fish Hatchery to be spawned, which would greatly increase the winter run egg supply. This effort shall be considered a supplement to, not a replacement for, efforts to increase natural production.

The conferees are aware of a proposal to establish a native plant nursery and xeriscap demonstration project at the Tiburon laboratory. The conferees expect NOAA to cooperate fully in carrying out this proposal.

The conferees have included \$1,500,000 for Sandy Hook lease costs, as requested, and expect NOAA to fully fund the lease with funds provided in this Act.

The conference agreement provides not less than \$1,234,000 for ongoing operations

ATTACHMENT 5



STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

500 LAFAYETTE ROAD, ST. PAUL, MINNESOTA 55155-4037

OFFICE OF THE
COMMISSIONER

DNR INFORMATC
(612) 296-8157

January 29, 1992

Ms. Trudy Cox, Director
Office of Ocean and Coastal Resource Management
U.S. Department of Commerce, NOAA
1825 Connecticut Avenue N.W.
Washington, D. C. 20235

Dear Ms. Cox:

I am responding to your letter of January 9, 1992 wherein you request an indication from Minnesota of our intent to proceed with the development of a Coastal Resource Management Program (CRMP). Before responding to the specific subject areas you suggest, it will be helpful to discuss existing intergovernmental relationships along the Lake Superior coastline, our "North Shore".

In the mid 1970's, as I am sure you are aware, a Coastal Zone Management planning program was conducted in Minnesota. Unfortunately the program was perceived by the North Shore public and local officials as a series of new state and federal mandates which were being imposed on the North Shore by St. Paul and Washington D.C. This effort was taking place at about the same time as the development of new federal legislation expanding the Boundary Waters Canoe Area, Rare II planning within the Superior National Forest, establishment of Voyageurs National Park, and major environmental litigation in state and federal court over the disposal of taconite tailings in Lake Superior by Reserve Mining Company. Concurrent with these developments was the general strengthening of environmental management in Minnesota through shoreland and floodplain management programs, the state protected waters permit program, the water appropriation permit program, the NPDES program, solid waste management, air quality programs, the State Environmental Quality Act, and soil and water conservation management, to name a few. These new or more aggressive state and federal management programs were, and still are to a great extent, considered as "top down" management programs imposed on local governments. The problem is further exacerbated because new mandates were not always accompanied by new financial resources.

Coastal Zone Management in Minnesota was one of the victims of negative reactions to the top down approach. In 1978, at the request of virtually all of the local government units on the North Shore, the Governor suspended participation in the program.

Ms. Trudy Cox
January 29, 1992
Page Two

Despite assurance to the contrary, Coastal Resources Management is still perceived by many of the public and some local officials as the imposition of new federal regulations. The most difficult problem ahead in the development of a CRMP for Minnesota will be overcoming these perceptions. The healthy result of this situation is that we can expect close public scrutiny, therefore we intend to structure a planning process that maximizes public participation. This should lead to a strong product that will have broad public support.

I think you will learn that Minnesota is proud of our programs. We think we have natural resource and environmental management programs in place that rank among the best in the nation. The development of those programs did not come without growing pains and, one of the most serious of these is the lack of trust between local, state and federal management efforts. Over recent years one of the major efforts in natural resource management in Minnesota has been the establishment and maintenance of trust between state and local interests. As the Department of Natural Resources Commissioner this is one of my primary personal goals as well.

In the mid 1980's North Shore interests developed concern over our efforts to update and expand the State Shoreland Management Regulations. Informal discussions were held between state and local officials and members of the general public about the need to develop land use management standards specifically for Lake Superior. After several months of discussion the Department agreed to a locally initiated land use planning program for the North Shore. The local entity that conducted the planning effort is the North Shore Management Board (NSMB).

The NSMB represents all of the local units of government on Lake Superior, outside of the City of Duluth which exercise zoning authority. It consists of the counties of Cook, Lake, and St. Louis; the Cities of Grand Marais, Silver Bay, Beaver Bay and Two Harbors; and Duluth and Lakewood Townships within St. Louis County. The NSMB is a legally constituted Joint Powers Board formed pursuant to Minnesota Statutes, Section 471.59. The NSMB has entered into a Cooperative Agreement with the Grand Portage Indian Reservation to coordinate and cooperate on matters of mutual concern. The Grand Portage Reservation has representation on the NSMB and on the Citizens and Technical Advisory Committees to the Board.

The NSMB proceeded, from 1987 through 1989, in the development of the North Shore Management Plan (NSMP). The NSMP establishes shoreland use policies, development standards, and administrative review provisions. The NSMP has been formally adopted through the state rule making process as the State Shoreland Management Rule for the North Shore of Lake Superior. Since its adoption as state rule in 1989 the provisions of the NSMP have been incorporated into the land use management programs of all of the participating North Shore communities.

Ms. Trudy Cox
January 29, 1992
Page Three

In the development of the NSMP the Department of Natural Resources worked as a partner with the NSMB. The Board recognized the Plan must ultimately comply with State Statutes, but both entities agreed a good deal of latitude exists in how to specifically comply with state mandates. It was within this latitude the Plan was developed to uniquely address North Shore development issues. Locally there has been excellent acceptance of the Plan; primarily, I believe, due to the "ownership" which resulted through local leadership in plan development.

As a result of the partnership between the Department and the NSMB a good deal of trust has been built. We believe that this trust can be used to bridge issues which in other times were barriers to cooperative management. The Department has committed to the NSMB that if Minnesota elects to develop and participate in a CRMP it will only be through a continuation of a state/local partnership.

Attached are specific responses to Minnesota's intended approach to meet the requirements of section 305(a) and (b) of the Coastal Zone Management Act as requested in your January 9, 1992 letter.

We look forward, in partnership with the North Shore Management Board, to working with you and your staff in the development of a Coastal Resource Management Program for Minnesota.

If you need additional information, please feel free to contact Regional Hydrologist Dan Retka (1201 East Highway 2, Grand Rapids, MN 55744, telephone: 218/327-4416) or North Shore Management Board staff Cheryl Erickson (330 Canal Park Drive, Duluth, MN 55802, telephone 218/722-5545).

Sincerely,



Ronald Nargang
Deputy Commissioner

Enclosures

cc: Pat Bloomgren, MPCA
Ron Harnack, BWSR
Kent Lokkesmoe, DNR
Dan Retka, DNR
Cheryl Erickson, NSMB

**GENERAL APPROACH TO SECTION 305 (a) and (b)
COASTAL ZONE MANAGEMENT ACT**

There are four general issue areas to be addressed in the letter of intent:

1. Commitment from the State's Governor.

On February 11, 1991 by letter to Timothy R. E. Keeney (copy enclosed), Governor Arne H. Carlson provided that letter of support. In companion letters Governor Carlson assigned the Department of Natural Resources as the lead state agency and assured the North Shore Management Board of the State's intent to continue the cooperative relationships which have been developed.

2. A document summarizing how the state will meet the major requirements of Section 306.

In reviewing the information contained in this response it must be recognized that any of the specific measures developed to meet the requirements of Section 306 will be developed during the CRM planning process. The responses contained herein only represent the range of issues that will likely be considered. The planning process will address all issues required under the Federal Act and resultant administrative regulations.

Section 306 requires the management program address:

Boundaries.

There are several program jurisdictional boundaries which will be considered during program development. Except when considering the non point program it is expected the boundary considered will be the NSMP jurisdictional boundary and the Shoreland Management boundary in the City of Duluth.

The jurisdictional boundary of the North Shore Management Plan "is the 40 acre subdivision lines of the rectangular coordinate system established in the U.S. Public Land Survey, nearest to the landward side of a line 1000 feet from the shoreline of Lake Superior or 300 feet landward from the center line of U.S. Highway 61, whichever is greater. However, the boundary between Lakewood Township and the western corporate limits of Two Harbors is the center line of the U.S. Highway Expressway." (Taken from the North Shore Management Plan, December, 1988.) In the City of Duluth where the NSMP does not have jurisdiction it is anticipated the coastal boundary considered will be the statutory boundary of the State Shoreland Management Program which is 1000 feet from the shoreline of Lake Superior and 300 feet from the boundary of the St. Louis River (assuming the CRMP will extend into the Estuary). Enclosed is a copy of the Duluth Zoning Regulations, Oct. 1987 which include

the zoning regulations in effect, the use districts and maps showing the shoreland limits.

In the development of the Non Point Pollution Program of the CRMP which is now required pursuant to Section 6217 it is anticipated the Lake Superior watershed boundary in Minnesota will be considered. Within that context there are jurisdictional boundaries of existing state and local management programs which will undoubtedly be incorporated into the non point program.

Permissible land and water uses.

The NSMP has identified Shoreland Management Areas which are Protected Resource, Residential, Commercial-Rural, Commercial-Urban, Resort Commercial, and Industrial. For each area goals and policies have been developed to guide development decisions.

The City of Duluth, within their Zoning Regulations, have developed use districts.

The State Protected Waters Permit Program (see Minnesota Statutes, Section 103G.245 and Agency Rules, Parts 6115.0150 through 6115.0280) provides protection for in water and near water lake beds. The Protected Waters Permit Program regulates any filling, excavation including spoil disposal, placement of structures, water level controls, bridges and culverts, intakes and outfalls, drainage and certain mining activities. Protected waters are mapped on a statewide basis and include all lakes and Types 3, 4, and 5 wetlands greater than 10 acres in size in rural areas and 2.5 acres in size in incorporated areas. A streams with a total drainage area of two square miles at its mouth is also protected waters.

For those wetlands not included in the Protected Waters Permit Program the 1991 State Legislature enacted the Wetland Conservation Act of 1991. This is otherwise referred to as the No Net Loss Wetland Program. Enclosed is a copy of the Conference Committee Report which includes the Act. Also enclosed are a Summary of the Act and a Summary of Exemptions from the Act.

Water use within the coastal area is controlled by the State Water Appropriation Permit Program required pursuant to Minnesota Statutes, Section 103G.271. Agency Rules have been developed and are contained in Review of Permit Applications for Appropriation and Use of Waters, Minnesota Rules, Parts 6115.0600 through 6115.0810.

Soil and water conservation programs are generally implemented by local Soil and Water Conservation Districts (SWCD) under guidance of the State Board of Water and Soil Resources (BWSR). Statutory authority for this program is contained in Minnesota Statutes, Chapter 103C.

The State Board of Water and Soil Resources is also primarily

responsible for a Local Water Planning program conducted pursuant to Minnesota Statutes, Chapter 103B. This program is not mandatory but is incentive driven. All of the counties in the Lake Superior Watershed have completed a Local Water Plan or are in the process of completing one.

Primary responsibility for water quality management in Minnesota is assigned to the Minnesota Pollution Control Agency under Minnesota Statutes, Chapters 115 and 116 (enclosed). The MPCA administers the NPDES program, the Non Point Pollution Control Program under section 319 of the Clean Water Act, and provides water quality certification to the Corps of Engineers in the administration of the section 404 permit program, among other duties.

Areas of particular concern.

The NSMP has identified Special Protection Districts which will be reviewed. The DNR administers a Scientific and Natural Areas Program which will be incorporated. The North Shore contains eight State Parks and six Waysides which may contain special features. A Remedial Action Planning process has been underway in the Duluth-Superior Harbor over the past several years. A Comprehensive Port Development Plan is nearing completion through the efforts of DNR, the Superior Port Authority of Duluth and the City of Duluth. Results of all of these efforts will be incorporated.

Erosion hazard areas have been identified as part of the NSMP development process. Work continues on more accurately identifying erosion areas. The structure setback provisions of the NSMP (page 32) have been incorporated into local zoning ordinances.

Broad guidelines on the priority of uses in particular areas are identified in the Shoreland Management Area Maps of the North Shore Plan and in the use districts in the Duluth zoning controls.

Means of state control.

The Shoreland Management Program in Minnesota is implemented through state developed minimum standards which, by law, must be incorporated into local ordinances. (See Minnesota Statutes, Section 103F.201 through 103F.221.) The North Shore Management Plan constitutes the state minimum standard for the area within the North Shore planning boundary. The State Shoreland Management Rules constitute the minimum development standards for shoreland areas not included in the jurisdiction of the North Shore Plan. Failure to adopt the minimum regulations by a local unit of government requires the State, through the Department of Natural Resources, to adopt the minimum standards for the unit of government. This authority has been exercised in Minnesota, although not on the North Shore.

In-water activities are regulated directly by the State pursuant to the Protected Waters Permit Program described above. The

boundary of State jurisdiction over protected waters is the ordinary high water level (OHW), which on Lake Superior is elevation 602. Certain activities conducted above the OHW that have impact on adjacent areas below the OHW are also regulated. Mining of beach gravel where lake wave action is expected to replenish the mined material is an example of the application of this administrative interpretation.

The CRMP for Minnesota is expected to be a combination of State establishment of minimum standards for local implementation with State administrative review and direct State regulation of certain activities. Any necessary linkages between state agencies or state and local agencies will be developed as part of CRMP development.

Organizational structure.

As indicated above, the backbone of planning for Coastal Resource Management will be the partnership which has developed between the State and local government through the North Shore Management Board. The Department and the NSMB have under discussion the enclosed draft Cooperative Agreement which specifies the details of this partnership for Coastal Resources planning. This draft agreement and agreements to be developed with the other players in coastal management, namely the Pollution Control Agency, the Board of Water and Soil Resources and the City of Duluth will be the basis for the necessary coordination during program development. In the draft agreement with DNR the NSMB agrees to provide leadership in coordinating local input to the Section 6217 development process since the boundary of the non point program will undoubtedly be larger than the Section 306 boundary.

Beaches and public access.

Public access considerations for the boating/fishing public are presently being addressed through implementation of the enclosed North Shore Harbors Plan, June 1991. Access for the non-boating public are being incorporated into the harbor development process.

Other access for the non-boating public is provided in the eight North Shore State Parks, six Waysides as well as other public facilities. For example, the City of Duluth has developed a Lakewalk Project which provides public contact with the Lake through downtown Duluth and the Canal Park area.

Energy facility siting.

Minnesota Statutes, Sections 116C.51 through 116C.69 provide authority and procedures for the siting of major energy facilities. This authority will be documented in the Coastal Resource planning process.

Shoreline erosion.

The NSMP has mapped erosion hazard areas and developed setback provisions related to the rate of erosion. Work continues in the

more precise definition of areas where development is subject to damage due to erosion.

Non point pollution control.

It is the Minnesota's intent to develop a non point pollution control program consistent with section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990. It is expected that existing programs which regulate land use, sanitary systems, vegetative alterations, and shoreland grading and filling will be a major component of the Non Point Program. These regulations will be supplemented with soil erosion control programs conducted by the State Board of Water and Soil Resources and the local Soil and Water Conservation Districts.

In addition each county has or is in the process of completing a local water plan. The local water plans identify of water and land management problems within the local jurisdiction and develop priorities and methodologies for dealing with the identified issues. It is expected that each local water plan will be related to the non point program.

3. Assurances of legal authorities.

Enclosed is a copy of Minnesota Statutes, Chapters 103A through 103I. These statutes constitute the basic Water Law of Minnesota. There are several key Agency Rules developed to further carry out the directive of the Water Law. Enclosed are Agency Rules, Parts 6115.0150 through 6115.0280, the Protected Water Permit Rules; Parts 6115.0600 through 6115.0810, the Water Appropriation Permit Rules; and Parts 6120.2500 through 6120.3900, the Shoreland Management Rules. Also enclosed is the North Shore Management Plan which is another key regulatory document.

We anticipate there will be need to reference other statutes and state and local regulations during program development but the majority of the necessary legal tools are contained in the enclosed documents. We feel there is sufficient authority contained in the existing laws and regulations to adequately meet the objectives of the Coastal Resources Program without the need to create new legal authorities.

4. Open public process.

It is anticipated the development of a Minnesota Coastal Resources Program will closely parallel the development of the North Shore Plan through the use of its advisory committees. Existing Technical Advisory (TAC) and Citizens Advisory Committees (CAC) are in place. The TAC is represented by each of the key federal, state, and local natural resource management agencies. The CAC has members from the key stakeholders along the shore. The composition of each committee is identified in the NSMP.

In addition to plan development utilizing the two existing committees it is anticipated there will be a series of public meetings (probably two or three) at different locations along the Shore at both the beginning and near the end of the planning process at a minimum. In earlier plan development additional public meetings were held as necessary, public working forums were used, public presentations by resource professionals were hosted, and so on. All of the meetings of the Board and its advisory committees are open to the public and are held along the North Shore for the convenience of the local public. Mailing lists are maintained to distribute meeting minutes, agendas, and related materials. A newsletter is published on a bimonthly basis and is presently distributed to 1200 addresses. Periodic news releases are prepared and distributed to the local and regional media. Press conferences for the Duluth media that serve the area are held at significant milestones.

Enclosed are the following:

- the February 11, 1991 letter from Governor Carlson to Keeney,
- a February 11, 1991 letter from Governor Carlson to MDNR designating DNR as the lead state agency for Coastal Resource planning,
- a February 11, 1991 letter from Governor Carlson to the North Shore Board,
- the Duluth Zoning Regulations, Oct., 1987,
- the Conference Committee Report on H.F. No. 1, the Wetland Conservation Act of 1991,
- a Summary of the Wetlands Conservation Act,
- a Summary of Exemptions to the Wetlands Conservation Act
- Minnesota Statutes, Chapter 115,
- Minnesota Statutes, Chapter 116
- a draft Cooperative agreement between the Department of Natural Resources and the North Shore Management Board relating to Coastal Resources Program development,
- the North Shore Harbors Plan, June, 1991,
- Minnesota Statutes, Chapters 103A through 103I,
- Agency Rules, Parts 6115.0010 to 6115.0810 including the Protected Waters Permit Rules and the Water Appropriation Permit Rules,
- Agency Rules, Parts 6120.2500 to 6120.3900, the State Shoreland Management Rules, and
- the North Shore Management Plan, December, 1988.



ARNE H. CARLSON
GOVERNOR

STATE OF MINNESOTA

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
SAINT PAUL 55155

February 11, 1991

Timothy R. E. Keeney, Director
Office of Ocean and Coastal Resource Management
U.S. Department of Commerce, NOAA
1825 Connecticut Avenue N.W.
Washington, D.C. 20238

Dear Director Keeney:

The State of Minnesota, in cooperation with local units of government along the North Shore of Lake Superior, has resolved to accelerate management of that resource and seek the opportunity to participate in the Coastal Resources Management Program.

The Department of Natural Resources will serve as the responsible state agency and will execute the program responsibilities through its Division of Waters in cooperation with the North Shore Management Board which is a joint powers board created under state law and is comprised of the general purpose local governments controlling land use along Lake Superior.

Minnesota statutes provide all necessary authorities to proceed with development of a program consistent with federal requirements. In addition, we are very pleased with renewed state and local cooperative efforts that have resulted in completion of the North Shore Management Plan. Shoreland ordinances are in effect in all North Shore counties as well as the City of Duluth and there is a clear commitment to consistent protection of the shoreland resource.

We appreciate your prompt action for enrollment in the program or notification of additional steps required to effect our participation. Please direct correspondence or requests to Commissioner Rodney W. Sando, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4037.

Sincerely,

ARNE H. CARLSON
Governor

AN EQUAL OPPORTUNITY EMPLOYER



ATTACHMENT 6

George V. Voinovich • Governor
Frances S. Buchholzer • Director

July 10, 1992

Ms. Ellen Brody
National Oceanic and Atmospheric Administration
OCRM, Coastal Programs Division
1825 Connecticut Avenue, NW
Washington, D.C. 20235



RE: Section 305 Grant Application for Ohio Coastal Management Program
Development

Dear Ms. Brody:

Enclosed is the above-referenced application for funding assistance under Section 305 of the Federal Coastal Zone Management Act of 1972, as amended to support completion of the development of Ohio's Coastal Management Program.

We appreciate the continuing assistance of your agency and look forward to working closely with you in the coming months. If you have any questions or need additional information or documentation, please call Mike Colvin, Coastal Management Administrator at (614) 265-6413.

Sincerely,

Jeffrey F. Mogawick, Chief
Office of Real Estate and Land Management

JFN:ag
Enclosure

OHIO COASTAL MANAGEMENT PROGRAM

Ohio Department of Natural Resources
Office of Real Estate and Land Management

SECTION 305, CZMA, PROGRAM DEVELOPMENT GRANT APPLICATION
FOR PERIOD OF OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Submitted to the National Oceanic and Atmospheric Administration
Office of Ocean and Coastal Resource Management
U.S. Department of Commerce
July 10, 1992

Contact:
Michael Colvin, Coastal Management Administrator
Office of Real Estate and Land Management
Ohio Department of Natural Resources
Fountain Square, Building C-4
Columbus, Ohio 43224
(614) 265-6413

CONTENTS

State Clearinghouse Intergovernmental Review Transmittal (Single Point of Contact)

Application - Standard Form 424

Budget Information - SF 424A

Assurances - Non-construction Programs

Certifications Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-free Workplace Requirements

Program Narrative

Supporting Budget Detail

Statement of Work



George V. Voinovich • Governor
Frances S. Buchholzer • Director

July 10, 1992

Ms. Linda Wise
State Clearinghouse
Office of Budget and Management
30 East Broad Street, 34th Floor
Columbus, Ohio 43266-0411

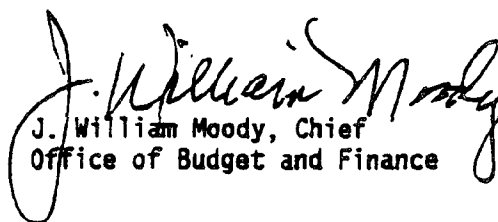
RE: Ohio Coastal Management Program (OCMP) - Program Development Grant
Application (U.S. Department of Commerce, NOAA)

Dear Ms. Wise:

Enclosed is ODNR's application for federal funds under Section 305 of the federal Coastal Zone Management Act of 1972. This is a final application and it is our understanding that it will be assigned a 45 day review period.

If you have any questions regarding this application, contact Mike Colvin, Coastal Management Administrator at (614) 265-6413.

Sincerely,


J. William Moody, Chief
Office of Budget and Finance

JWM:ag
Enclosure

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Preapplication Construction <input checked="" type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED 7/10/92	Applicant Identifier
		3. DATE RECEIVED BY STATE 7/10/92	State Application Identifier Applied for
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION																													
Legal Name: Ohio Department of Natural Resources	Organizational Unit: Office of Real Estate and Land Management																												
Address (give city, county, state, and zip code): Office of Real Estate and Land Management Fountain Square, Building C-4 Columbus, Ohio 43224 Franklin County	Name and telephone number of the person to be contacted on matters involving this application (give area code): Michael Colvin (614) 265-6413																												
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; padding: 2px; display: inline-block;"> 3 1 - 6 4 0 2 0 4 7 </div>	7. TYPE OF APPLICANT: (enter appropriate letter in box) a																												
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify):	A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify):																												
9. NAME OF FEDERAL AGENCY:																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="border: 1px solid black; padding: 2px; display: inline-block;"> 1 1 - 4 1 9 </div> TITLE:	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Ohio Coastal Management Program Development. The proposed work program is focused on completing Ohio's final draft program document, environmental impact assessment; adopting rules and policies; and, completing the organizational development necessary to fully implement the OCMP.																												
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): Portions of Lucas, Wood, Ottawa, Erie, Sandusky, Lorain, Cuyahoga, Lake and Ashtabula counties.																													
13. PROPOSED PROJECT: Start Date: 10/1/92 Ending Date: 9/30/93	14. CONGRESSIONAL DISTRICTS OF: a. Applicant: Statewide b. Project: 9, 5, 11, 13, 19, 20 and 21																												
15. ESTIMATED FUNDING: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>a. Federal</td> <td>\$</td> <td>135,000</td> <td>.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td>33,750</td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td>168,750</td> <td>.00</td> </tr> </table>	a. Federal	\$	135,000	.00	b. Applicant	\$	33,750	.00	c. State	\$.00	d. Local	\$.00	e. Other	\$.00	f. Program Income	\$.00	g. TOTAL	\$	168,750	.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE <u>July 10, 1992</u> b. NO. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
a. Federal	\$	135,000	.00																										
b. Applicant	\$	33,750	.00																										
c. State	\$.00																										
d. Local	\$.00																										
e. Other	\$.00																										
f. Program Income	\$.00																										
g. TOTAL	\$	168,750	.00																										
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input checked="" type="checkbox"/> No																													
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED																													
a. Typed Name of Authorized Representative Jeffrey L. Nogawick	b. Title Chief, Office of Real Estate and Land Management																												
c. Telephone number (614) 265-6395																													
d. Signature of Authorized Representative 																													
e. Date Signed																													

Previous Editions Not Usable

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. Coastal Management Program Development	11.419	\$	\$	\$ 135,000	\$ 33,750	\$ 168,750
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B - BUDGET CATEGORIES

Object Class Categories	Section 305	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
		(1) Federal	(2) Non-Federal	(3)	(4)	
a. Personnel		\$ 37,505	\$ 24,300	\$	\$	\$ 61,805
b. Fringe Benefits		14,585	9,450			24,035
c. Travel		2,900				2,900
d. Equipment						
e. Supplies		470				470
f. Contractual		12,260				16,460
g. Construction						
h. Other Printing & mailing and legal notices		67,280				63,080
i. Total Direct Charges (sum of 6a-6h)		168,750				168,750
j. Indirect Charges		0				0
k. TOTALS (sum of 6i and 6j)		\$ 168,750	\$	\$	\$	\$ 168,750
7. Program Income		\$ 0	\$	\$	\$	\$ 0

Authorized for Local Reproduction

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 31 U.S.C. §1352, "New Restrictions on Lobbying," and 15 CFR Part 26 "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Restrictions for Drug-Free Workplace (Grants)." The certifications shall be treated as material representation of fact upon which reliance will be placed when the Department of Commerce determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by § 1352 Title 31 of the U.S. Code for persons entering into a grant or cooperative agreement over \$100,000, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, in connection with making of any Federal grant, the entering into of any cooperative, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting an officer or employee of any agency, Member of Congress, an or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by §1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented under 15 CFR Part 26, for prospective participants in primary covered transactions.

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or

commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 2.A.(b) of this certification; and

(d) Have not within a three year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

C. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lowered Tier Covered Transactions (Subgrants or Subcontracts)

(a) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

GRANTEES OTHER THAN INDIVIDUALS

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about ---

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for

PROGRAM NARRATIVE

The Ohio Department of Natural Resources (ODNR) proposes a number of activities for funding assistance through the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management (OCRM) to complete development of the Ohio Coastal Management Program (OCMP) to the stage where ODNR may submit a final draft coastal program document for federal approval and funding under Section 306 of the Coastal Zone Management Act (CZMA) for program administration. The geographic area affected by the program is the coastal area of Lake Erie including the counties along Lake Erie. The population served includes all Ohioans and other users of Lake Erie and coastal area resources.

The public review draft of the Ohio Coastal Management Program (OCMP) document has been distributed, public hearings and public meetings have been conducted and written comments have been solicited from state, local, federal and regional agencies, public and special interest organizations, and the general public. Additional consultation and coordination has been undertaken with representatives of local jurisdictions and planning agencies regarding the proposed OCMP and specific issues such as enforcement of flood plain management regulations, the Lake Erie erosion hazard area, and other authorities affecting activities in the coastal area.

This project is needed to complete policy and organizational development for full implementation of the coastal management program. The project tasks will be reflected in a final draft program document, draft environmental impact statement, maps of the Lake Erie erosion hazard area and other products which will inform the public, resource and regulatory agencies and other affected parties on how to ensure consistency with the state's coastal management policies.

As shown in the Statement of Work, ODNR will complete several tasks antecedent to activities for which program development funds are requested. ODNR will prepare a modified OCMP document and responsiveness summary. Memoranda of Understanding will be developed with participating state agencies. And, work will be completed on the preliminary identification of the Lake Erie erosion hazard area and original rules for enforcement of the erosion hazard area. From this stage, with funding assistance and other support from NOAA, ODNR will prepare the final OCMP document and fully develop the organization and authority to implement a federally approved coastal management program.

The tasks will be undertaken by staff of the Coastal Management Section and Office of Real Estate and Land Management, Division of Geological Survey, ODNR legal counsel, and the Attorney General's Office with assistance from members of ODNR's Integrated Management Team, and the state agency Policies and Programs Coordinating Committee.

OHIO COASTAL MANAGEMENT PROGRAM DEVELOPMENT
Ohio Department of Natural Resources
Office of Real Estate and Land Management

SECTION 305 GRANT APPLICATION
FOR PERIOD 1 OCTOBER 1992 THROUGH 30 SEPTEMBER 1993

BUDGET

The state and federal funds allocated to the development of the Ohio Coastal Management Program (OCMP) are summarized in the table below. Total federal funds requested are \$135,000. The Ohio Department of Natural Resources (ODNR) will provide \$33,750 in matching funds in the ratio of 4:1 as prescribed in Section 305 of the federal Coastal Zone Management Act.

Other state funds, personnel services, supplies and equipment and technical resources are also being allocated to the development of the OCMP. This grant application and budget summary reflect the expenditure of funds and allocation of resources in high priority tasks for completing program development and attaining full implementation of a federally-approved coastal management program.

A. BUDGET SUMMARY

	FEDERAL	STATE	TOTAL
PERSONNEL	37,505	24,300	61,805
FRINGE	14,585	9,450	24,035
TRAVEL	2,900		2,900
SUPPLIES	470		470
CONTRACTUAL	12,260		12,260
PRINTING/ MAILING/NOTICE	67,280		67,280
TOTALS:	135,000	33,750	168,750

B. PERSONNEL AND FRINGES

This project will provide federal funding assistance for one full time position in the Coastal Management Section, a summer intern, and part time assistance from the Ohio Attorney General's Office. Payrolls issued for employees of the state of Ohio have certain payroll related charges added. The employees paid from federal funds will be eligible for full fringe benefits as established in state law and estimated as follows:

	<u>Percent</u>
Retirement	13.31%
Health Insurance	(charged at rates in accordance with O.R.C. Sec. 124.82)
Life Insurance	(charged at \$0.26/\$1000 of coverage, O.R.C. Sec. 124.81)
Disability Leave	(computed at 1.65% of gross pay, O.R.C. Sec. 124.385)
Accrued Leave	(computed at 1.75% of gross pay, O.R.C. Sec. 125.211)
ESTIMATED TOTAL	28.00%

Similarly, other employees of the Coastal Management Section, the Office of Real Estate and Land Management and ODNR working on the program development tasks described in this application receive full fringe benefits as provided by state law.

C. TRAVEL

Coastal Management Program staff will travel out-of-state to attend meetings and consult with OCRM staff. Other out-of-state and in-state travel related to program development activities will be covered at the expense of ODNR and has not been included as a part of the state's matching share of the Section 305 grant proposal. All reimbursable cost for state employees will be according to rates and requirements established rules of the Office of Budget and Management. The travel budget for this project is described as follows:

<u>Destination</u>	<u>Number and Cost per Trip</u>	<u>Total Cost</u>
OCRM, Wash. D.C.	4/\$600 (2 days, 1 night)	\$2,400
Program Managers Meeting	1/\$500 (3 days, 2 nights)	\$500
TOTAL:	\$2,900	

D. SUPPLIES

The supplies required in this project include envelopes and stationery for the notification of shoreland property owners and local governments of ODNR's determination of the Lake Erie erosion hazard area estimated at \$170, and supplies needed in updating the inventory of shoreline structures and fills for the administration of Lake Erie submerged lands estimated at \$300. Other supplies are included in the cost estimates for printing and mailing of the OCMP document and draft and final environmental statements.

TOTAL: \$470

E. CONTRACTUAL

This project includes a number of contractual costs for services related to public hearings, and public information and education on the OCMP. These costs are detailed as follows:

<u>Activity</u>	<u>Cost</u>
Recording transcript for hearings on Lake Erie erosion hazard area identification	\$300/hearing (4 hearings)
Court Recorders for hearings on erosion hazard area rules	\$400/hearing (2 hearings)
Facility rental	\$360
Publication of OCMP news and information in cooperation with Ohio Sea Grant	\$1,800/quarter (3 quarters)

Seminar on Coastal Management Program Policies and Prohibitions	\$2,500
Coastal Area Real Estate Seminar	\$2,000
TOTAL:	\$12,260

F. PRINTING, MAILING AND LEGAL NOTICES

The total cost of printing and mailing has been estimated for the Lake Erie erosion hazard area identification and the final draft OCMP document and environmental statements. These costs are detailed as follows:

OCMP document and related materials

Draft OCMP document/Draft EIS	\$17,200
Legal notice for hearings	\$1,200
Final OCMP document/Final EIS	\$15,000
OCMP Policies Summary and Program Consistency Guidance	\$3,600
ODNR Consolidated Permit Applic.	\$1,800

Lake Erie erosion hazard area identification

First notification (7000 letters by certified mail @\$2.29)	\$16,030
Legal notice for 4 hearings	\$3,000
Notification to objecting persons	\$5,400
Notification of ruling on objections and final identification	\$2,700
TOTAL:	\$67,280

G. ALLOCATION OF STAFF TIME BY TASKS

The following is a breakdown of the staff time, in months, by task:

	FEDERAL	STATE	TOTAL
OCMP document and draft environmental statement	2	1	3
Prepare for and conduct public hearings	1	1	2
Final draft OCMP document and environmental impact statement	3	1	4

State consistency guidance	1.5	1	2.5
OCMP policies summary/ federal consistency guidance	1.5	1	2.5
ODNR Consolidated Permit Application	1	0.5	1.5
Legal Analysis of OCMP	1	0.5	1.5
Lake Erie submerged lands inventory	3	1	4
Compile table of federal agency contacts for consistency review	0.5	0.5	1
Prepare two educational seminars on OCMP	0.5	3	3.5
Assist development of Lake Erie erosion hazard program	1	2	3
Program Administration/ clerical		6	6
TOTAL:	16	18.5	34.5

The Coastal Management Section anticipates hiring a new position in the first quarter which will assist in implementing procedures for reviewing coastal area activities for consistency with coastal management policies, namely preparing the consolidated permit application and state and federal consistency guidance. Also, assistance will be provided in publishing the final OCMP document and environmental statements, preparing the summary of responses to comments and assisting with public hearings and associated activities.

Federal funding may be utilized to support the work of staff in the Coastal Management Section or Office of Real Estate and Land Management depending upon the date of hiring a new position or unanticipated contingencies. The above itemization reflects the allocation of staff time within the Coastal Management Section and support staff within ODNR for these tasks in the final stages of program development.

As noted in the preface to the budget summary, there are personnel and other costs associated with program development activities that are not included in this project. Other activities to be undertaken by the coastal management staff with the cooperation and assistance of ODNR divisions and other agencies include coordination with other agencies and local interests, and compiling background material to support the development of Ohio's assessment and strategy for program enhancement, and the coastal nonpoint pollution control program.

OHIO COASTAL MANAGEMENT PROGRAM
SECTION 305 PROGRAM DEVELOPMENT PROJECT

STATEMENT OF WORK

The following identifies the objectives, jobs, tasks, and milestones of the project. ODNR has been developing policies, rules and procedures for implementing the Ohio Coastal Management Program (OCMP) since the state coastal management law was effected in 1989. ODNR has solicited public input on the draft OCMP document and rules for implementing various provisions of the program and public participation will continue to be an important element of program development. Also, the Coastal Resources Advisory Council will continue to serve its important role in advising the Director and Department on policies, plans and programs for comprehensive coastal resource management.

The major remaining tasks in program development include the completion and adoption of the final OCMP document, determining the Lake Erie erosion hazard area and effecting rules for enforcing the erosion hazard area, and providing information to the public, shoreland property owners, and local jurisdictions on coastal management policies and procedures for ensuring consistency with those policies.

The involvement of NOAA, Coastal Programs Division is essential to the successful completion of the project. While trips to NOAA's Office of Ocean and Coastal Resource Management headquarters office in Washington, D.C. are detailed in the budget summary, we wish to stress that ODNR will be making every effort to consult with NOAA staff and familiarize the agency with the organization and resources of ODNR and the state of Ohio which will be utilized to implement a federally approved coastal management program.

The tasks and subtasks are described below, followed by benchmarks (in parentheses) which indicate the quarters within which the work is scheduled. The first quarter of the Section 305 program development project begins in October, 1992 and the fourth quarter ends at the end of September, 1993. In many instances, the tasks result in specific products. These program development products are specified milestones in the accompanying list which is organized by the quarters within which the tasks are expected to be completed or the products provided (i. e. document printed or rules filed). As indicated, important subtasks are already underway and the program development project tasks schedule takes this into account.

TASK I. Final Draft OCMP Document and Environmental Assessment

Subtasks

1. The Coastal Management Section will consult with NOAA, Coastal Programs Division, on the modified OCMP document and refinements to program organization and authority necessary to meet requirements of the CZMA. (1st quarter)
2. The Coastal Management Section will consult with local jurisdictions, state agencies, federal agencies and coastal area interests on modifications to the OCMP document and implementing rules, regulations and policies of the OCMP. (1st quarter)

3. The Coastal Management Section will reformat the OCMP document, prepare final draft MOUs, and make any necessary adjustments to coastal area boundary maps. (1st quarter)
4. The Coastal Management Section, with the assistance of staff from REALM and other ODNr Divisions, will prepare the environmental impact assessment on implementation of the OCMP to be utilized as the basis for NOAA's Draft EIS on the OCMP. (1st quarter)
5. The Coastal Management Section will complete the final draft OCMP document and other associated documents or materials specified by the Coastal Programs Division. (end of 1st quarter)
6. The Coastal Management Section will coordinate with NOAA in preparation of Draft EIS; printing and distribution of Draft EIS and OCMP document; public notice of federal hearings on the OCMP and conducting hearings; preparation of responsiveness summary regarding public comments on the Draft EIS; and corresponding revisions to OCMP document.

Budget Estimate for Task I Activities: \$50,000 (federal assistance)

TASK II. Legal Review and Analysis

Subtasks

1. As directed, ODNr legal counsel and an Assistant Attorney General will review the public review draft OCMP document and subsequent revised text and make recommendations regarding amendments or revisions deemed necessary or beneficial in meeting federal program approval requirements. (1st quarter)
2. An Assistant Attorney General will consult with the program administrator, ODNr legal counsel and OCRM staff as necessary, conduct legal analyses of OCMP organization and policies, and prepare any required reports or documentation deemed necessary by OCRM regarding state authorities necessary to meet the requirements of 15 CFR, Part 923. (1st quarter)

Budget Estimate for Task II Activities: \$8,000 (federal assistance)

TASK III. Guidance for Achieving Consistency with Coastal Management Policies

Subtasks

1. The Coastal Management Administrator and staff will consult with NOAA, ODNr's Integrated Management Team and state agency Policies and Programs Coordinating Committee on federal consistency procedures and mechanisms for ensuring state consistency. (1st, 2nd, 3rd quarters)
2. The Coastal Management Section will prepare a federal consistency assessment form with attached OCMP policies summary for use by applicants for federal permits or federal financial assistance. (2nd and 3rd quarters)

3. The Coastal Management Section will prepare guidance for achieving state consistency with OCMP policies: procedures for implementing MOUs, comprehensive list of state and local review agency contacts. (2nd and 3rd quarters)
4. The Coastal Management Section will work with the Office of the Chief Engineer and Division of Geological Survey in preparing a procedural guide and application forms for an ODNR consolidated permit application. It is expected that the application form will serve any combination of the following ODNR controls on coastal area activities: beach erosion structure permit (ODNR Chief Engineer authority); submerged lands lease or permit (ODNR Director authority, REALM); Lake Erie erosion hazard area permit (ODNR Director authority, Division of Geological Survey). (3rd and 4th quarters)

Budget Estimate for Task III Activities: \$20,000 (federal assistance)

TASK IV. Lake Erie Erosion Hazard Area

Subtasks

1. ODNR will notify landowners and local governments by certified mail of preliminary identification of Lake Erie erosion hazard area. Following notification prescribed in Ohio's coastal management laws, ODNR will conduct four public hearings in coastal counties. If practicable, the hearings will also cover the rules for enforcing the erosion hazard area. (1st quarter)
2. Division of Geological Survey staff will, with assistance of the Coastal Management Section, review objections filed; prepare findings to support ruling on objections and final identification of erosion hazard area; notify each objecting person of ruling to modify or leave identification unchanged; notify by certified mail the affected municipality, county or township of modifications made as a result of an objection. (1st and 2nd quarters)
3. Division of Geological Survey staff will prepare maps illustrating the final identification of Lake Erie erosion hazard area. ODNR will notify by certified mail each affected municipality, county and township. (2nd quarter)
4. ODNR will file with the Joint Committee on Agency Rule Review (JCARR) the original erosion hazard area enforcement rules. The Coastal Management Section will assist the Division of Geological Survey in conducting public hearings (if practicable, combine with hearings on identification of Lake Erie erosion hazard area). (1st quarter)
5. The Division of Geological Survey and Coastal Management Section will evaluate comments and recommendations. The rules will be revised and amended as appropriate and final rules will be filed with JCARR. (2nd quarter)

Budget Estimate for Task IV Activities: \$32,000 (federal assistance)

TASK V. Lake Erie Submerged Lands Administration

1. The Coastal Management Section will work with the Real Estate Section, REALM, to develop a comprehensive inventory of structures and fills upon Lake Erie submerged lands. An intern position will be established to perform necessary field work, records review and compilation of data for use in submerged lands administration. (3rd and 4th quarters)

Budget Estimate for Task V Activities: \$10,000 (federal assistance)

TASK VI. Public Education and Outreach

Subtasks

1. The Coastal Management Section will work with the Ohio Sea Grant Program, The Ohio State University, and publish OCMP news and information as a supplement in the Ohio Sea Grant bi-monthly publication, Twine Line) and distribute same on a broader scale as stand alone bulletins. This is a one-time pass through to the Ohio Sea Grant Program for the final stages of development of the OCMP. The Ohio Lake Erie Office is working with ODNR and other state agencies represented on the Lake Erie Commission to develop a similar cooperative venture with Ohio Sea Grant involving publishing information about Lake Erie related programs among all the agencies represented on the Commission. Future OCMP information and education activities will be administered directly by ODNR. However, collaborative activities with Ohio Sea Grant will continue. (1st, 2nd and 3rd quarters)
2. ODNR will conduct two seminars, one targeting the real estate industry, and another targeting landowners, developers and local jurisdictions. The Coastal Management Section will work with other ODNR divisions and state agencies and independent organizations in preparing the agenda and educational materials for distribution. Topics covered will include Ohio's public trust law and rules for the administration of Lake Erie submerged lands, flood hazard area and erosion hazard area requirements, and the consistency requirements of the OCMP for projects in the coastal area which are subject to state or federal approval. (2nd and 3rd and 4th quarters)

Budget Estimate for Task VI Activities: \$15,000 (federal assistance)

TASK VII. Administration

1. Supervise staff; consult and coordinate with NOAA and other state, federal and local agencies; provide assistance to state and federal agencies, local jurisdictions and the Coastal Resources Advisory Council on coastal management issues and problems. (continuing)
2. Perform clerical and administrative tasks; prepare revised OCMP document and final document; update and maintain mailing lists, files and records. (continuing)

3. Prepare OCMP implementation plan and application for federal assistance for OCMP implementation under Section 306, CZMA, and other pertinent authorities. Prepare budget, organize staff and technical resources.

Budget Estimate for Task VII Activities: \$33,750 (state match)

PROGRAM DEVELOPMENT MILESTONES

The milestones listed below are based upon ongoing program development activities and the completion of certain subtasks prior to October 1, 1992. These include:

Prepare summary of comments received on public review draft OCMP document

Obtain and incorporate comments from NOAA on draft OCMP document

Prepare revised draft MOUs with state agencies participating in OCMP

Prepare first draft OCMP document modified in response to initial public review and NOAA recommendations; coordinate among participating agencies

Prepare first draft environmental assessment for Draft EIS on implementation of OCMP

Prepare revised draft rules for enforcement of Lake Erie erosion hazard area

Complete mapping of the Lake Erie Erosion Hazard Area; update list of shoreland property owners

The following are milestones for the major tasks and subtasks of this program development project:

1st Quarter:

Complete legal analysis and opinion on the OCMP and supporting authorities of state and local government

Provide notification and conduct hearings on identification of Lake Erie Erosion Hazard Area

File final rules for enforcing Erosion Hazard Area

Submit draft OCMP document and environmental assessment to NOAA for OCRM review

OCRM comments to ODNR

Submit final draft OCMP document and environmental assessment to OCRM

2nd Quarter:

File original rules and conduct hearings on rules for enforcing Lake Erie erosion hazard area

Draft EIS Notice of Intent in the Federal Register

Environmental statement scoping

OCMP/Draft EIS notice of availability in Federal Register; Draft EIS distributed for public review

ODNR rules on objections to identification of Lake Erie Erosion Hazard Area; make any necessary modifications and notify local governments of modifications; rule on objections to modifications

ODNR makes final identification of Lake Erie Erosion Hazard Area and notify by certified mail appropriate local authorities

Develop Coastal Nonpoint Source Pollution Control Program management team to oversee development of the program. Contact areawide agencies, Resource Conservation and Development programs, and other public and special interest organizations to ensure adequate interaction among nonpoint source pollution interests

3rd Quarter:

Federal hearings on OCMP/Draft EIS

Complete response to comments on Draft EIS and necessary document revisions

Complete OCMP Policies Summary and Consistency Guidance

Complete guidance for state consistency

Final OCMP document submitted to Governor for review, documentation and sign-off

Final OCMP document/Final EIS Notice of Availability in Federal Register; distribution for public review

Prepare application to NOAA for federal assistance under Sec. 306, Sec 6217

4th Quarter:

Prepare comprehensive inventory of all structures and fills upon Lake Erie submerged lands

Publish ODNR consolidated permit procedures and application forms

NOAA completes approval findings

Formal program approval and notice of approval in Federal Register

ATTACHMENT 7

STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ECOLOGICAL SERVICES SECTION

CZM PROGRAM DEVELOPMENT SECT. 305

GRANT APPLICATION

FOR PERIOD 1 OCT. 1992 THROUGH 30 SEPT. 1993

SUBMITTED 5 JUNE 1992

CONTACT: STUART A. STEVENS, PH.D.
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COASTAL RESOURCES DIVISION GA DNR
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STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ECOLOGICAL SERVICES SECTION
CZM PROGRAM DEVELOPMENT SECT. 305

GRANT APPLICATION

FOR PERIOD 1 OCT. 1992 THROUGH 30 SEPT. 1993

Table of Contents

SECTION 1: FEDERAL APPLICATION FORMS

Application Face sheet (SF424)	2
Budget Information (SF424A)	3
Assurances - Non Construction (SF424B)	5
Certification Re: Debarment, etc. (CD511)	7
State Executive Order Review Request	9

SECTION 2: STATEMENT OF WORK

Task 1. Public Involvement.	11
Task 2. Boundary	13
Task 3. Authority and Organization	15
Task 4. Federal Consultation.	17
Task 5. Program Document.	19
Task 6. Administration	21
Personnel Vitae	23
Organizational Charts	34

SECTION 3: BUDGET

A. Budget Summary	36
B. Fringe Benefits.	37
C. Equipment Budget	37
D. Travel Budget	38
E. Printing, supplies	38
F. Grant Cost by Tasks.	39
G. Staff Time by Tasks.	39

SECTION 4: INDIRECT COST

Not Applicable. No indirect cost charged.

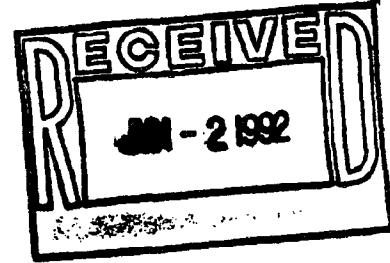
SECTION 5: AUDIT INFORMATION41

Georgia Department of Natural Resources

One Conservation Way, Brunswick, Georgia 31523-8600

Joe D. Tanner, Commissioner
Duane Harris, Director
Coastal Resources Division
912/264-7218
FAX 912/262-3143

June 3, 1992



Mr. David McKinnie
South Atlantic Region Office of Ocean
and Coastal Resource Management
NOAA
National Ocean Service
1825 Connecticut Avenue, NW
Washington DC 20235

RE: Draft CZM Proposal for Grant
Application by State of Georgia

Dear Mr. McKinnie:

I have enclosed for your review and information, a copy of the draft CZM Program Development Section 305 - Grant Application for the time period of 1 Oct. 1992 thru 30 Sept. 1993, Source # 11.419. The final application package will be forwarded to Commissioner Tanner for execution prior to submission to your office.

If you have questions or need additional information, please call either Duane Harris, Director of Coastal Resources Division or myself at (912) 264-7218.

Sincerely,

Stuart A. Stevens, Ph.D.
Chief, Ecological Services

SAS:rmd

ATTACHMENT

STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ECOLOGICAL SERVICES SECTION

CZM PROGRAM DEVELOPMENT SECT. 305
GRANT APPLICATION

FOR PERIOD 1 OCT. 1992 THROUGH 30 SEPT. 1993

SECTION 1: FEDERAL APPLICATIONS FORMS

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0344-0043

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction <input checked="" type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED 6/5/92	Applicant Identifier																												
		3. DATE RECEIVED BY STATE	State Application Identifier																												
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier																												
5. APPLICANT INFORMATION																															
Legal Name Coastal Resources Division		Organizational Unit Georgia Department of Natural Resources																													
Address (give city, county, state, and zip code): One Conservation Way Brunswick, GA 31523		Name and telephone number of the person to be contacted on matters involving this application (give area code) C. Duane Harris (912) 264-7218																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 58 - 1130945		7. TYPE OF APPLICANT: (enter appropriate letter in box) A																													
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify):		A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify):																													
9. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 11 - 419 TITLE: Coastal Zone Management Act (Program Development Section 305) AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): Georgia Coastal Area		9. NAME OF FEDERAL AGENCY: Department of Commerce NOAA; sponsoring program																													
10. PROPOSED PROJECT: Start Date: 10/1/92 Ending Date: 9/30/93		10. CONGRESSIONAL DISTRICTS OF: a. Applicant: First b. Project: First																													
11. ESTIMATED FUNDING: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>a. Federal</td> <td>\$</td> <td>135,000</td> <td>.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td>33,931</td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td>168,931</td> <td>.00</td> </tr> </table>		a. Federal	\$	135,000	.00	b. Applicant	\$	33,931	.00	c. State	\$.00	d. Local	\$.00	e. Other	\$.00	f. Program Income	\$.00	g. TOTAL	\$	168,931	.00	12. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE June 15, 1992 b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$	135,000	.00																												
b. Applicant	\$	33,931	.00																												
c. State	\$.00																												
d. Local	\$.00																												
e. Other	\$.00																												
f. Program Income	\$.00																												
g. TOTAL	\$	168,931	.00																												
13. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN ONLY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		13. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No "Yes," attach an explanation.																													
a. Name of Authorized Representative Joe D. Tanner		b. Title Commissioner, DNR																													
c. Signature of Authorized Representative		d. Telephone number 404/656-3500																													
e. Date Signed																															

Previous Editions Not Usable

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Standard Form 278 (REV. 8-88)
Prescribed by GSA FPMR (41 CFR) 101-11.6

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		Base or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
C2M Program 9. Development Section 305	11.419	\$	\$	\$ 135,000	\$ 33,931	\$ 168,931
2.						
3.						
4.						
5. TOTALS		\$	\$	\$ 135,000	\$ 33,931	\$ 168,931

SECTION B — BUDGET CATEGORIES

Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY			Total (5)
	(1) Section 305	(2)	(3)	
A. Personnel	\$ 111,905	\$	\$	\$ 111,905
B. Fringe Benefits	40,554			40,554
C. Travel	7,400			7,400
D. Equipment	6,890			6,890
E. Supplies	582			582
F. Contractual	0			0
G. Construction	0			0
H. Other (printing)	1,600			1,600
I. Total Direct Charges (sum of 6a-6h)	168,931			168,931
J. Indirect Charges	0			0
K. TOTALS (sum of 6i and 6j)	\$ 168,931	\$	\$	\$ 168,931
L. Program Income	\$ 0	\$	\$	\$ 0

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Approved	(c) 2nd Qtr	(d) Other Sources	(e) TOTALS
8. CZM Program Development Section 305	\$ 33,931	\$	\$	\$ 33,931
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$ 33,931	\$	\$	\$ 33,931

SECTION D - FORECASTED CASH NEEDS

Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ 135,000	\$ 38,604	\$ 32,132	\$ 32,132
14. Non-Federal	33,931	8,482	8,483	8,484
15. TOTAL (sum of lines 13 and 14)	\$ 168,931	\$ 47,086	\$ 40,615	\$ 40,616

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	(b) First	(c) Second	(d) Third	(e) Fourth
16. CZM Program Development Section 305	\$ 135,000	\$ 135,000	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$ 135,000	\$ 135,000	\$	\$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional sheets if necessary)

21. Other Charges:	\$135,000	22. Indirect Charges:	\$0
23. Remarks:	See attached budget justification and tasks descriptions		

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ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1801-1803 and 7324-7326) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 108 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of "warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1994.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
	Commissioner, GA DNR
APPLICANT ORGANIZATION	DATE SUBMITTED
Georgia Department of Natural Resources	

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. The nature of this form provides for compliance with certification requirements under 31 U.S.C. 81332, "New Restrictions on Lobbying," and 19 CFR Part 28 "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Restrictions on Drug-Free Workplace (Grants)." The certifications shall be treated as material representation of fact upon which reliance will be placed when the Department of Commerce determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by § 1352 Title 31 of the U.S. Code for persons entering into a grant or cooperative agreement over \$100,000, the applicant certifies that:

- (a) No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, in connection with making of any federal grant, the entering into of any cooperative, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subgrants at all tiers (including subgrants, contracts, subcontracts and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by §1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12349, Debarment and Suspension, and implemented under 19 CFR Part 28; for prospective participants in primary covered transactions.

A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this transaction been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or

commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 2.A.(b) of this certification; and

(d) Have not within a three-year period preceding this application had any or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

C. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (Subgrants or Subcontracts)

(a) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

GRANTEES OTHER THAN INDIVIDUALS

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about ...

(1) The danger of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for

drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (e);

(d) Notifying the employee in the statement required by paragraph (e) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (e), (b), (c), (d), (i) and (f).

8. The grantee shall insert in the space provided below the title(s) for the performance or work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

GRANTEES WHO ARE INDIVIDUALS

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

I, the duly authorized of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT		GRANT/AWARD NUMBER AND/OR OBJECT NAME	
Georgia Department of Natural Resources		Evaluation of Georgia's role within the Federal Coastal Zone Management Program.	
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE			
Joe D. Tanner, Commissioner Georgia Department of Natural Resources			
SIGNATURE		DATE	

Georgia Department of Natural Resources

One Conservation Way, Brunswick, Georgia 31523-8600

Joe D. Tanner, Commissioner
Duane Harris, Director
Coastal Resources Division
912/264-7218
FAX 912/262-3143

15 June 1992

Mr. Charles H. Badger
Office of Planning and Budget
254 Washington Street, S.W.
Atlanta, GA 30334

RE: Draft CZM Proposal for Grant
Application by State of Georgia

Dear Mr. Badger:

I have enclosed for your review and information, a copy of the draft CZM Program Development Section 305 - Grant Application for the time period of 1 Oct. 1992 thru 30 Sept. 1993, Source # 11.419. Please have this presented for Executive Order Review.

If you have questions or need other information, please advise.

Sincerely,

Stuart A. Stevens, Ph.D.
Chief, Ecological Services

SAS:rmd

ATTACHMENT

STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ECOLOGICAL SERVICES SECTION

CZM PROGRAM DEVELOPMENT SECT. 305
GRANT APPLICATION

FOR PERIOD 1 OCT. 1992 THROUGH 30 SEPT. 1993

SECTION 2: STATEMENT OF WORK

TASK DESCRIPTION

No. 1 Title: Public Involvement.

Total Grant Cost: \$29,312 Federal: \$23,048 State: \$6,264

Work completed by Grantee. Number of staff months: 8.2.

BACKGROUND:

Coordination with governmental agencies, land owners, conservation organizations, interests groups, local and regional planning and zoning authorities, and the general public is essential to the development and administration of coastal management programs. Governor Zell Miller will appoint a Coastal Advisory Council (CAC) whose members represent those listed above. The state will recommend this Council meet monthly in order to progress as rapidly as possible towards a federally approved CZM Program. This Council provides a mechanism for analyses of key issues and provides policy and guidance to staff in the development of the state CZM Program.

DESCRIPTION:

The attached budget and tasks descriptions describe in detail staff time and cost of this task. Work will involve monthly meetings with the CAC. This Council will meet along the coast to insure coastal residents have the chance to address the Council. Additional meetings will be held with local governments and planning organizations. News releases, at least once per quarter, will be issued to advise the public of program status. Presentations by program staff will be given to any interested group as requested. In addition, staff will solicit invitation to specific groups to discuss program status.

EXPECTED PRODUCTS & TIMETABLE:

Individual time sheets: monthly.
CAC agenda and meeting minutes: monthly.
Public information brochure.
News release: quarterly.
Summary of workshop/retreat: biannual.
Summary of comments and conflicts identified by impacted organizations.

GCZM Task 1
page 2

Benchmarks:

1st Quarter: GCZM brochure; Governor's announcement;
develop list of public and private organizations
impacted

2nd Quarter: Summary of workshop/retreat; news release
on progress

3rd Quarter: Summary of comments from organizations;
summary of conflicts identified; news release on
progress

4th Quarter: Summary of workshop/retreat; news release
on progress

TASK DESCRIPTION

No. 2 Title: Boundary.

Total Grant Cost: \$19,072 Federal: \$16,462 State: \$2,610

Work completed by Grantee. Number of staff months: 5.5

BACKGROUND:

Regulations proposed to protect the coast must be defined within a specific area, i.e., 'those areas the management of which is necessary to control uses which have direct and significant impacts on coastal waters.' The coastal boundary must include all vital areas such as saltmarshes and components of the sand sharing system. A large amount of acreage may be excluded due to the acreage of coastal Georgia currently under direct authority of the federal government through the Department of the Interior (Fish and Wildlife Service and National Park Service) and Department of Defense (Army and Naval Bases).

DESCRIPTION:

The attached budget and tasks descriptions describe in detail staff time and cost of this task. Previous efforts by the State of Georgia defined a coastal boundary based upon political subdivision of coastal counties. The previous boundary and its justification will be carefully studied in light of current CZM Rules and policy. Special management areas, such as Sanctuaries, will be identified for inclusion within the boundary. The estuarine area of the state has been determined for some rivers. All rivers will be mapped to determine, as close as possible, the estuarine area. Consultation with neighboring states will be undertaken to insure no conflicts exist between their existing CZM approved boundary and Georgia's proposed boundary.

EXPECTED PRODUCTS & TIMETABLE:

- Individual time sheets: monthly.
- List of key issues.
- Identify federal lands exempt.
- Identify special management areas. ✓
- Identify estuarine area along all rivers.
- Map/brochure indicating boundary.

GCZM Task 2
page 2

Benchmarks:

1st Quarter: Identify key issues, federal lands exempt, and special management areas; summary of estuarine area on all rivers

2nd Quarter: Summary of consultation with South Carolina regarding interstate boundary

3rd Quarter: Summary of consultation with Florida regarding interstate boundary; draft map of boundary

4th Quarter: Summary of public hearing on boundary; final description and map of boundary

TASK DESCRIPTION

No. 3 Title: Authority and Organization

Total Grant Cost: \$49,950 Federal: \$39,508 State: \$10,442

Work completed by Grantee. Number of staff months: 14.0

BACKGROUND:

This will be the most time consuming task proposed this grant award period. Although production of a CZM document plan is essential to the program, without enforceable legislation to support the document, the program will fail. Given the schedule of Sessions of the Georgia General Assembly, staff of the Department must complete analysis of existing authorities early this grant award period. Any legislative action sought must be drafted by September of 1993 for consideration at the 1994 Session of the Georgia General Assembly. All relevant statutes, regulations, case law, and other local and state legal authority should be within the responsibilities and authorities of the state CZM Program. This would create a centralized permitting system for coastal activities resulting in a reduction in paperwork easing the permitting process for the public.

DESCRIPTION:

The attached budget and tasks descriptions describe in detail staff time and cost of this task. Staff of the CZM Program will expend most of their efforts evaluating existing state and local authority with respect to management of the coastal zone. Efforts will focus on analysis of laws to insure enforceability of policies and reduction of conflicting authorities. Staff will also investigate existing monitoring of policies and laws as applied to determine any shortcomings. Policies, not adopted by law, and unwritten policies of various authorities will be reviewed for possible inclusion in any proposed additional authorities. Although comprehensive legislation may be necessary, networking will be considered as a means of reducing additional legislation.

EXPECTED PRODUCTS & TIMETABLE:

- Individual time sheets: monthly.
- Summary of coastal authorizations.
- Copies of priority authorizations.
- Draft of proposed authorizations.
- Summary of public hearing.
- Final proposed authorizations.

Benchmarks:

1st Quarter: Summaries of all state and local authorities impacting coastal Georgia; copies of authorities considered highest of priority for further evaluation

2nd Quarter: Identify framework for operation of state CZM Program

3rd Quarter: Draft legislation; rules, MOU's, executive orders, and/or other authorities proposed; summary of public hearing on draft authorities

4th Quarter: Copies of final legislation, rules, MOU's, executive orders, and/or other authorities proposed

TASK DESCRIPTION

No. 4 Title: Federal Consultation

Total Grant Cost: \$13,531 Federal: \$9,877 State: \$3,654

Work completed by Grantee. Number of staff months: 3.7

BACKGROUND:

Relevant federal agencies must be included in any effort to develop an approved CZM Program. These agencies will be subject to consistency review and must be included in development of the consistency list. In addition, federal agencies can identify concerns of national interests which must be addressed in any coastal management plan. Contacts must provide for mutual understanding regarding each agency's participation during program development and possible impacts to that agency following approval of the Program.

DESCRIPTION:

The attached budget and tasks descriptions describe in detail staff time and cost of this task. GCZM staff will identify specific staff within each federal agency to act as liaison with that agency. Meetings will be scheduled, in cooperation with OCRM, to inform interested agencies of Georgia's efforts in order to solicit input on concerns of national interests and to insure federal agencies are involved in a timely manner with developing the Georgia CZM Program. Federal agencies will also be involved in developing the list of actions requiring consistency review. Federal agencies who now have a major role on Georgia's coast will be contacted individually to solicit input.

EXPECTED PRODUCTS & TIMETABLE:

- Individual time sheets: monthly.
- Summary of joint federal agency meeting.
- Summary of individual federal agency meetings.
- List of national interests concerns.
- List of actions requiring consistency review.

Benchmarks:

1st Quarter: Summary of joint meeting with all interested federal agencies

2nd Quarter: Summary of individual meeting with Corps Of Engineers, Fish and Wildlife Service, National Park Service, and Department of Defense (Army and Navy staff)

3rd Quarter: Summary of comments from federal agencies identifying national interests concerns; summary of joint meeting with all interested federal agencies

4th Quarter: List of actions requiring consistency review; distribution of list to federal agencies for review; summary of consultations

TASK DESCRIPTION

No. 5 Title: Program Document

Total Grant Cost: \$29,472 Federal: \$26,341 State: \$3,131

Work completed by Grantee. Number of staff months: 8.6

BACKGROUND:

Any activity which has the potential impact of a Coastal Zone Management Program must have a comprehensive planning document to guide Program staff, users (developers, planners, local governments, etc.), and the general public. Such documents should describe the need for management and the impacts of implementing the management strategy. That strategy must be clearly described in concise, easily understood language and must include goals and objectives of the management authority with respect to the area of concern.

DESCRIPTION:

The attached budget and tasks descriptions describe in detail staff time and cost of this task. Although a comprehensive planning document is necessary for program approval and to provide proper program guidance, available staff resources will be insufficient to complete the document during the first planning year. Therefore, efforts will be concentrated to produce portions of the final document which correspond to tasks planned this grant period. Draft sections will be available for review by all interested parties. Final sections will be presented to OCRM for inclusion in the comprehensive document to be prepared the following grant period by GCZM.

EXPECTED PRODUCTS & TIMETABLE:

Individual time sheets: monthly.
 List of uses of regional benefit.
 Summary of comments received from public hearing.
 Draft sections of document: boundary
 authority and organization
 federal consultation.

GCZM Task 5
page 2

Benchmarks:

1st Quarter: Review of model CZM management plans from other states.

2nd Quarter: Identify uses of regional benefit.

3rd Quarter: Draft summary of portions of document including sections on boundary, national interests, authority, organization, and additional authorities needed

4th Quarter: Issuance of public notice for review of draft document; summary of public hearing on document; final summary of portions of document

TASK DESCRIPTION

No. 6 Title: Administration

Total Grant Cost: \$11,122 Federal: \$3,292 State: \$7,830

Work completed by Grantee. Number of staff months: 2.5

BACKGROUND:

Proper leadership from individuals familiar with Georgia's coast and knowledgeable of key individuals within agencies, organizations, interests groups, and the general public will be necessary if Georgia accomplishes its goal of a federally approved CZM Program. Staff of Coastal Resources Division are committed to this goal and will devote necessary time to achieve this goal.

DESCRIPTION:

The attached budget and tasks descriptions describe in detail staff time and cost of this task. The Division Director will provide guidance for development of the Program and act as liaison with elected officials, the Commissioner of Natural Resources, and Board of Natural Resources. The Chief, Ecological Services Section, will supervise the CZM Program staff, act as Georgia's contact with OCRM, and supervise the day to day operations of the Program. The Chief is familiar with coastal Georgia and issues facing the coast. Both the Director and Chief will review and approve all documents and official actions of the Program. The involvement of the Director and Chief will shorten the learning curve for staff hired and insure accomplishment of proposed tasks.

EXPECTED PRODUCTS & TIMETABLE:

Individual time sheets: monthly.
CAC agenda and meeting minutes.
Staffing of State's CZM Program.
Marsh Act brochure.
Shore Act brochure.
Appointment of Coastal Advisory Council (CAC).

Benchmarks:

Pre-Award Quarter: Marsh brochure and Shore brochure; copies of recruitment announcements for CZM positions; appointment of CAC; minutes of first meeting of CAC; minutes of subsequent CAC meetings prior to grant award date

1st Quarter: Full staffing of CZM Program

2nd Quarter: Summary of site visit to South Carolina Coastal Council to review approved CZM Program; grant award request for final year funding for program development

3rd Quarter: Summary of site visit to Florida CZM to review approved CZM Program

4th Quarter: Summary of site visit to North Carolina CZM to review approved CZM Program

BIOGRAPHY

CHARLES DUANE HARRIS

Present Position

Director, Coastal Resources Division, Georgia Department of
Natural Resources, One Conservation Way, Brunswick, Georgia
31523-8600

Education

B.S. - Biological Science, Colorado State University, March
1970

Employment

Georgia Department of Natural Resources*:

Marine Biologist - 1970 - 1975.
Oyster Project Leader - 1975 - 1977.
Artificial Reef Project Leader - 1977 - 1978.
Research Unit Manager - 1979.
Assistant Chief of Fisheries - 1980.
Chief of Fisheries - 1981 - 1982.
Director, Coastal Resources Division - 1983 - Present.

*Georgia Game & Fish Commission - 1970 - 1972.

Other

Administrator of all Grants and Cooperative Agreements
received by Coastal Resources Division since 1983.

South Atlantic Fishery Management Council activities:

Member - Snapper/Grouper Plan Development Team - 1977 -
1980.
Member - Scientific and Statistical Committee - 1980 -
1982.
Council Member - 1983 - 1988.
Vice Chairman - 1984/85
Chairman - 1985/86
Council Designee to International Convention for the
Conservation of Atlantic Tunas (ICCAT), Madrid, Spain -
1987.

Atlantic States Marine Fisheries Commission activities:

Member - Advisory Committee - 1981 - 1982.
Commission Member - 1983 - Present.
Vice Chairman - 1988 - 1989.
Chairman - 1990 - 1991.

Advisory Board Member - Southeast Consortium for Undersea Research - 1982 - 1989.

Certified Fisheries Scientist - American Fisheries Society - 1979 - Present.

Scuba Instructor - National Association of Underwater Instructors and World Underwater Federation - 1980 - Present. Taught Scuba Diving as a Course in Continuing Education, Brunswick Junior College, 1978 - 1985. Taught Scuba Diving to employees of Georgia Department of Natural Resources, 1980 - 1988.

Completed approximately 700 Scuba Dives, most offshore of the coast of Georgia.

Served as Expert Witness in: Chance v. Certain Artifacts Found and Salvaged From the NASHVILLE a/k/a the RATTLESNAKE, Her Engines, Boilers, Tackle, etc. in rem., Defendant, State of Georgia, Claimant. No. CV483-391. United States District Court, S. D. Georgia, Savannah Division. August 16, 1984.

Examples of Presentations:

"Georgia's Coastal Resources", Georgia Water Association Annual Meeting, Atlanta, 1985.

"Multi-Council Management", Eleventh Annual Marine Recreational Fisheries Symposium, Tampa, 1986.

"Georgia's Coastal Fisheries", Teachers, Environment, and Free Enterprise Institute, Armstrong State College, Savannah, annually, 1986 - 1992.

"Georgia's Coastal Resources", Leadership Georgia, Moultrie, 1992.

"Experiences of Leadership", Keynote Address, presented to Dublin/Laurens County Leadership Program Graduation, Dublin, 1992.

"Wetlands Management Under Georgia's Coastal Marshland Protection and Shore Assistance Acts", presented at Environmental Law Institute, Atlanta, 1990.

"The Department's Role in Aiding and Assisting Georgia's Seafood Farmers", presented at the Georgia Farm Bureau Federation Annual Meeting, Jekyll Island, 1978.

Publications

- Harris, C. D. 1986. Multi-Council Management. IN: Stroud, R. H. Editor. Multi-Jurisdictional Management of Marine Fisheries. Marine Recreational Fisheries 11. Proceedings of the Eleventh Annual Marine Recreational Fisheries Symposium, Tampa, Florida, May 1 and 2, 1986. National Coalition for Marine Conservation, Inc., Savannah, Georgia. 1986. 237 p.
- Harris, C. D. 1980. Survey of the Intertidal and Subtidal Oyster Resources of the Georgia Coast. Georgia Department of Natural Resources, Coastal Resources Division, Brunswick, Georgia.
- Harris, C. D. 1978. Location and Exploration of Natural Reefs on Georgia's Outer Continental Shelf. Final Report to the U.S. Fish and Wildlife Service.
- Harris, C. D. 1978. The Fisheries Resources on Selected Artificial and Live Bottom Reefs on Georgia's Continental Shelf. Final Report to the U.S. Fish and Wildlife Service.
- Harris, C. D. 1977. Marine Reef Investigations in Georgia. IN: Cupka, D. M., P. J. Eldridge and G. R. Huntsman, Editors. Proceedings of Workshop on the Snapper/Grouper Resources of the South Atlantic Bight. South Carolina Marine Resources Center, Tech. Report No. 27.
- Harris, C. D. 1975. Feasibility Analysis of Using Remotely Sensed Data for Mapping Georgia's Intertidal Oyster Resources. Final Report to the National Marine Fisheries Service, St. Petersburg, Florida.
- Harris, C. D. 1974. Observations on the White Shrimp (Penaeus setiferus) in Georgia. Georgia Department of Natural Resources, Game and Fish Division, Coastal Fisheries Office, Brunswick, Contribution Series Number 27, 54 p.
- Mahood, R. K, C. D. Harris, J. L. Music, Jr. and B. A. Palmer. 1974. Survey of the Fisheries Resources in Georgia's Estuarine and Inshore Ocean Waters. Parts I - IV. Georgia Department of Natural Resources, Game and Fish Division, Coastal Fisheries Office, Brunswick, Contribution Series Numbers 22, 23, 24, and 25.

RESUME
1 June 1992

Stuart Albro Stevens
Georgia Department of Natural Resources
Coastal Resources Division
One Conservation Way
Brunswick, Georgia 31523
W) (912) 264-7218 H) (912) 267-9357

Birth Date: October 30, 1953
Height: 5'7"
Weight: 170 lbs.
Health: Excellent
Hobbies: Three children, martial Arts and antique toys

EDUCATION

Ph. D. 1983 - University of Georgia	Focus: Estuarine Ecology
M. S. 1977 - University of Georgia	Focus: Statistics
B. S. 1975 - University of South Carolina	Focus: Marine Sciences

RESEARCH/EMPLOYMENT EXPERIENCE

1992 to present Chief, Ecological Services
Georgia Department of Natural Resources
Coastal Resources Division

Administers provisions of the Coastal Marshlands Protection Act and Shore Protection Act for alteration of coastal wetlands and sand sharing system. Reviews and evaluates applications for alteration of wetlands and beaches including examining plans and drawings, site inspections, and estimating biological or other impacts in order to recommend whether permits should be issued. Gathers and prepares evidence for court presentations relative to unauthorized activities or challenges to permit actions. Coordinates with federal, state, and local governments on evaluation of applications and jurisdictional determinations. Supervises professional and clerical staff to accomplish Branch goals and objectives. Administers all aspects of Georgia's efforts with respect to Coastal Zone Management through direct supervision of the Department's Coastal Zone Management Program. Drafts legislation and supports the passage of laws through the legislative process. Acts as liaison between local, state, and federal officials and the general public to insure all are advised of the State's efforts with respect to Georgia CZM. Supervises the Shellfish Program requiring close coordination with staff of the Program to insure goals and objectives are met and the Sanitation Project, within the Program, meets Federal NSSP guidelines. Registered agent to lobby in behalf of environmental legislation impacting Departmental responsibilities.

1990 to 1992 Chief, Marsh & Beach Section
Georgia Department of Natural Resources
Coastal Resources Division

Administered provisions of the Coastal Marshlands Protection Act and Shore Assistance Act for alteration of coastal wetlands and sand

sharing system. Reviewed and evaluated applications for alteration of wetlands and beaches including examining plans and drawings, site inspections, and estimating biological or other impacts in order to recommend whether permits should be issued. Gathered and prepared evidence for court presentations relative to unauthorized activities or challenges to permit actions. Coordinated with federal, state, and local governments on evaluation of applications and jurisdictional determinations. Supervised automation of applications, files, and other pertinent information to provide quick retrieval of information. Supervised professional and clerical staff to accomplish Section goals and objectives. Supervised the Shellfish Program requiring close coordination with staff of the Program to insure goals and objectives are met and the Sanitation Project, within the Program, meets Federal NSSP guidelines. Identified problems and needs of the State and industry relative to shellfish and provided administrative guidance to the Program to respond to these needs and problems. Registered agent to lobby in behalf of environmental legislation impacting Departmental responsibilities.

1989 to 1990

Assistant Chief, Marsh & Beach Section
Georgia Department of Natural Resources
Coastal Resources Division

Administered provisions of the Coastal Marshlands Protection Act and Shore Assistance Act for alteration of coastal wetlands and sand sharing system. Assisted Section Chief with review and evaluation of applications for alteration of wetlands and beaches. Gathered and prepared evidence for court presentation relative to unauthorized activities or challenges to permit actions. Coordinated with federal, state, and local governments on evaluation of applications and jurisdictional determinations.

1984 to 1989

Shellfish Program Leader
Georgia Department of Natural Resources
Coastal Resources Division

Directed and controlled all aspects of the State's Shellfish Program including administering the shellfish budget, formulating and executing management decisions, and supervising Shellfish Sanitation. The project consisted of managing the States's oyster and clams resources for public and commercial use. Responsibilities included but were not limited to: Field sampling, data collection, verification, and analyses, report writing, supervision and training of professional staff, and preparation of management recommendations. A primary responsibility was devising and implementing long range goals for enhancing the Shellfish Program, organizing actions to achieve these goals, and evaluating success of actions taken.

1983 to 1984

Marine Biologist
Georgia Department of Natural Resources
Coastal Resources Division

Major responsibilities were acting as project biologist responsible for tagging related to penaeid shrimp migration and monitoring of shrimp stocks. These projects required me to manage budgets, supervise other biologist, boat crews, laborers and administrative staff; design and implement sampling programs; analyze and interpret data; and make management recommendations. Other duties included supervision of Georgia's Endangered Species Program and

Shellfish Sanitation Project and participation as a member of the State's marine mammal response team.

1981 to 1983

Natural Resource Planner
Georgia Department of Natural Resources
Coastal Resources Division

Responsibilities included review of documents related to environmental concerns, scrutinizing various permits for alteration of marshlands, assessing the impact of marsh manipulation, and conferring with members of the Georgia Coastal Management Board.

1981

Coordinator of the Sapelo Island
National Estuarine Sanctuary
Georgia Department of Natural Resources
Coastal Resources Division

Duties were supervision of staff, purchasing and budget management, developing management plans, preparing educational materials, and lecturing to the public.

RESEARCH PROPOSALS

- Evaluation of Georgia's role within the federal Coastal Zone Management Program. 1992. Submitted to NOAA/OCRM.
- Expanded water quality sampling of the Georgia Coast. 1991. Funded through EPA Nearshore Coastal Waters Program. Second year funds awarded for 1992.
- Shellfish and Finfish Resource Enhancement along Coastal Georgia. 1988. Funded through oil spill settlement funds, State of Georgia.
- Water Quality Assessment of the Savannah River and Other Pollution Impacts along Coastal Georgia. 1988. Funded through oil spill settlement funds, State of Georgia.
- Feasibility of Increasing Oyster Production in Georgia Estuarine Waters. with others. Submitted to Gulf and South Atlantic Fisheries Development Foundation, Inc. 1988.
- Feasibility of Increasing Oyster Production in Georgia. Submitted to Gulf and South Atlantic Fisheries Development Foundation, 1986.
- Aspects of biodeposition, sedimentation, and reef structure on intertidal oyster reefs. Funded by Sapelo Island Research Development Foundation, 1980.
- Aspect of biodeposition, sedimentation, and reef structure on intertidal oyster reefs. Submitted to Lerner Fund for Marine Research, 1980.
- Factors controlling the success of oyster reefs in Georgia. Submitted to NOAA Sea Grant, 1980.
- The site quality index as a management tool for the oyster industry. Submitted on NOAA Sea Grant, 1979.
- Ecological interactions and control in a salt marsh: An experimental approach. (R. Wiegert principle investigator). Submitted to NSF, 1978.
- A critical examination of species diversity as simulated by systems modeling. Submitted to NSF, 1975.

TEACHING EXPERIENCE

- Chief instructor at Stevens Academy of Marital Arts, 1983 to present
- Instructor at Golden Isles Karate DOJO, Inc. 1982.
- Advisor for county science projects, too numerous to list
- Facilitator Team Member, Salt Marsh Ecology Workshop, 25 - 28 March, 1982.
- Chief instructor for Sapelo Island Tang Soo Do Moo Duk Kwan School, 1980 to 1981
- Laboratory instructor of biology, 1978 to 1979
- Instructor for FORTRAN for forestry, winter 1977.
- Instructor for statistics, spring and fall 1976, & spring 1977
- Instructor for FORTRAN, graduate level, winter
- Teaching assistant for statistics, fall 1975

PUBLICATIONS

- Allometric relationships of shrimp of the genus *Penaeus* in Georgia. In preparation.
- The occurrence of *Haplosporidium nelsoni* in oysters, *Crassostrea virginica*, in coastal Georgia. 1989. with R. Walker and P. Heffernan. In preparation for J. of Invertebrate Pathology.
- The distribution of the oyster pathogen, *Perkinsus marinus*, in the coastal waters of Georgia. 1990. with R. Walker and P. Heffernan. Submitted to the Georgia Journal of Science.
- Lethal parasites in oysters from coastal Georgia, with discussion of disease and management implications. 1991. with E. Lewis, F. Kern, A. Rosenfield, R. Walker, and P. Heffernan. In press. Marine Fisheries Review.
- Increasing hard clam, *Mercenaria mercenaria* (L.), production by utilizing closed shellfishing areas in coastal Georgia. with R. Walker. 1991. North American J. of Fish. Management 11:267-276.
- Hard clam harvesting season in the coastal waters of Georgia. 1988. with R. Walker and P. Heffernan. Malacology Data Net, 2(5/6):105-112.
- Hard clam, *Mercenaria mercenaria* (L.), recruitment into Christmas Creek after harvesting. 1988. with R. Walker. GA Dept. Nat. Res. Coastal Res. Div. Contribution No. 43, pp. 15.
- Hard clam, *Mercenaria mercenaria* (L.), resources of Christmas Creek, Little Cumberland, and Cumberland Islands, Georgia. 1988. with R. Walker. GA Dept. Nat. Res. Coastal Res. Div. Contribution No. 41, pp. 30.
- Evaluating the Economic Importance of Shellfish to the Georgia Economy. 1987. with D. Ofiara. Submitted to North American J. Fish. Management.
- Shellfish in Georgia: Resource Description and Economic Significance of the Shellfish Harvesting and Processing Sectors. 1987. with D. Ofiara. Georgia Sea Grant College Program, pp. 34.
- Motion under the ocean. 1983, Coastlines, Georgia 6(1):28-29.
- Largemouth Bass: Freshwater angler's delight. 1983. Coastlines, Georgia 5(3):12-15.
- Ecology of intertidal oyster reefs: Food, distribution and carbon/nutrient flow. Ph. D. dissertation, Univ. Of Georgia 195 p.
- The Sea Wave -- a powerful force of nature. 1982. Coastlines, Georgia 5(1):8-9.
- Oysters are nature's engineers. 1981. Coastlines, Georgia 4(6):21-22.
- Georgia oysters--delicacy of the marsh. Coastlines, Georgia 4(5):10-12

- Marsh gas and cordgrass. 1981. Coastlines, GA 4(4):7.
- No more dents. 1981. PV4, April, p. 71.
- Fight that rust! 1980. PV4, October, p. 46.
- A linear systems model of an intertidal oyster community. 1977. p. 26-34. with R. Dame. In: Vernberg, F. et al. The dynamics of an estuary as a natural ecosystem. Ecological Research Series, Gulf Breeze, FL.
- The process of simulating an intertidal oyster community. 1977. MS thesis, University of Georgia, 75 p.
- See also, Edwards, L. 1982. Oyster reefs: Valuable to more than oysters. Sea Frontiers, 28(1):23-25.

PRESENTATIONS

- Georgia legislative developments. Law Institute, 16-17 July 1992, Savannah, Ga., invited speaker.
- Regulation of Georgia's sensitive marshes and shorelines. CRDC, 25 June 1992, Brunswick, Ga., invited speaker and panel moderator.
- DNR's role on the coast: Amendments to the Shore and Marsh Acts and State efforts with CZM. Governor's Environmental Advisory Council, 13 May 1992, Atlanta, Ga., invited speaker.
- State regulation of development in sensitive areas, River corridors, mountains, and marshlands. Real Property Law Institute, State Bar of Georgia, 14-16 May 1992, Amelia Island, Fl., invited speaker.
- Georgia's wetland and shoreline regulatory authority. State/Federal Floodplain Management Coordination Meeting, 18 December 1991, Atlanta, invited speaker.
- Revisions to Submerged Lands Leasing Act. Annual General Meeting of Georgia Marine Business Association, 14 December 1991, Bellville, Ga.
- Managing wetlands: Issues at Federal, State, and local levels. President's Managerial Intern Program, 20 November 1991, Atlanta, panel expert.
- Habitat protection under the Coastal Marshlands Protection Act and Shore Assistance Act. Erosion & Sedimentation Control Workshop, Level 1 and 2, Savannah, 31 October 1991, invited speaker.
- Amendments to the Marsh Act. Wetlands Conservation Study Committee, 18 September 1991, Savannah.
- Georgia's fragile beaches: management concerns. Earth Day 1991, Brunswick College, April, 1991, Brunswick.
- Protecting Georgia's coast without participation in the Federal Coastal Zone Management Program. Coastal States Organization, 10 December 1990, St. Simons Island.
- Numerous presentations to industry, legislative groups, and professionals.
- Impacts of pollution on coastal water quality. Key Note Address delivered to the Georgia Environmental Health Association, Jekyll Island, GA., 19 - 22 July, 1989.
- Co-instructor for training of biologist to respond to hazardous discharges (4 hours). 1988.
- Co-instructor for training of sanitarians, inspectors, and law enforcement officers dealing with shellfish regulations statewide (8 separate sessions in regional offices, 6 hours training per session) 1988.
- History of shellfish harvest in Georgia. Coastal Georgia Historical Society, January, 1988, along with historic displays and field trips.
- Georgia's shellfish management strategy. Ga. Southern College Graduate

Seminar Series, 1988.

- Major oil spills and water quality. Ga. Water Pollution Control Assoc., Jekyll Island, August, 1987.
- Evaluation of shellfish harvesting areas affected by oil spills. 1987 GSASSC, Orlando, Fl., May, 1987.
- Savannah River oil spill: Clean up and environmental assessment. GA Water and Pollution Control Association, 1987.
- Georgia's oil spill response. GSASSC, Orlando, Florida, 1987.
- Status report on Savannah River oil spill, Ga. Fish. Workers Assoc., Columbus, 1987.
- Riparian rights and the issue of shellfish Harvesting. GSASSC, Biloxi, Mississippi, 1986.
- Riparian rights in Georgia's marshes, GA Fish. Workers Assoc., Atlanta, 1986
- What's new about oysters, clams, and mussels. Coastal Georgia Audubon Society, Brunswick, April, 1983.
- Natural food source of oysters in Georgia. NSA, Hilton Head, SC, 1983
- The site quality index as a possible management tool for the oyster industry. ERF, Jekyll Island, GA, 1979
- Factors controlling the success of oyster reefs in Georgia. SEERS, Jacksonville, FL., 1978.
- An intertidal oyster bed model: Diversity vs. Steady state. South Carolina Academy of Sciences, 1975

PROFESSIONAL TRAINING SINCE GRADUATION (formal courses and workshops)

	HOURS
-State Purchasing Procedures, 1981	6
-Orientation, 1981	8
-Employee Interviewing, 1981	6
-Employee Performance Appraisal Guidelines, 1981	7
-Management in State Government, Level I, 1982	26
-Marine Mammal Recovery training, 1983	16
-Management in State Government, Level II, 1983	40
-Employee Assistance Program, 1984	2
-Managing the Troubled Employee, 1984	7
-Oyster and Clam Workshop, 1985	8
-Sea Turtle Recovery Workshop, 1985	8
-Position Description Writing Workshop, 1985	6
-Fair Labor Standards Act - Interpretation Workshop, 1985	2
-Techniques of Supervision, 1985	8
-How to Manage Time, 1986	6
-Management by Wondering Around, 1986	8
-How to work with people, 1987	6
-Purchasing Workshop, 1988	6
-Flexible Benefits Workshop, 1988	6
-Managing for multiple priorities, 1989	6
-Managing Organizational Change, 1989	36
-Managing Organizational Change: An Evaluation, 1989	2
-Dealing with upset citizens and the public, 1989	6
-Geostatistics: Theory, Practice, and PC Appl., 1989	40
-Managing Organizational Change: An Update, 1990	2
-Conflict Management and Negotiation Skills, 1990	8
-Regulatory Response to a Natural Disaster, 1990	8
-DOAS Telephone Use, 1990	3
-Interactive Management (Xerox), 1991	8
-Southern Conference on Wetlands, 1991	24
-Principles & Applications of Beach Renourishment, 1992	12
-Manager's Role as Coach, 1992	7

-Employee Management Relations, 1992	4
-Computer training: MICROSTAT II, 1988, Ga Tech	4
SMART Integrated, I - IV, 1987, DNR	10
Lotus 1-2-3, 1986, BC	20
Advanced DOS, 1986, BC	20
Wordperfect, 1986, BC	6
SAS/PC, 1986 MAREX	16
Autocad CAD/CAM	8
	?

Numerous cassette series on self improvement including:

- The New Time Management
- Negotiating: Getting To Yes
- The Do's and Don'ts of Delegation
- Creativity: Where Do New Ideas Come From
- Effective Public Speaking
- How to Sell Yourself, Services, and Products
- The Subliminal Winner
- The Secrets of Power Negotiating
- Powerful Business Writing Skills
- Stress Management
- Winning Management Strategies
- Effective Negotiating
- How to Listen Powerfully
- Science of Self Confidence
- Goals: How to set them, How to reach them
- Bringing out the best in people
- Non-money motivators
- Organizational politics
- Projecting a positive winning image
- Lifeplanning

CPR

HONORS AND AWARDS

- nominated State Manager of the Year, 1990 and 1992
- appointed Chairman, Interstate Shellfish Sanitation Conference, study Committee on Surveys, 1988, 1989
- appointed Chairman, National Pollution Indicator Study, Committee on Shoreline Survey Methods, 1988
- nominated Dept. Natural Resources Employee of the Year, 1987
- Who's Who in the South and Southwest, 1985
- Awarded special meritorious increase for outstanding performance in State government, 1984
- Sigma Xi, 1982
- Outstanding Marine Science Student Award, 1975
- Who's Who in American Colleges and Universities, 1975

STATE AND GOVERNMENT PUBLICATIONS

- Stevens, S., L. Connally, and M. Melton. 1981. Sapelo Island National Estuarine Sanctuary draft management plan. Submitted to U.S. Dept. Commerce, NOAA Sanctuary Program Office, 80 pp.
- Stevens, S. and C. Cowman. 1982. Georgia's Shellfish Sanitation Program - A Proposal. Submitted to Commissioner's Office for updating Program, 13 pp.

Stevens, S. with S. Shipman and V. Baisden. 1984. Survey of Georgia's major marine fisheries resources. Annual Report 1983. U.S. Dept. of Commerce, NOAA, NMFS Office, 51 pp.

Stevens, S. with S. Shipman. 1984. Penaeid shrimp migration and growth along the Georgia coast. Annual Report 1983. U.S. Dept. of Commerce, NOAA Office, 29 pp.

Stevens, S. and M. Melton. 1984. A bibliography of research conducted in the Sapelo Island National Estuarine Sanctuary. Prepared for U.S. Dept. of Commerce, NOAA, Sanctuary Programs Office, 66 pp.

Stevens, S. with S. Shipman. 1984. Penaeid shrimp migration and growth along the Georgia coast. Completion Report 1982. U.S. Dept. of Commerce, NOAA, NMFS Office, 142 pp.

Stevens, S. and S. Shipman. 1984. Survey of Georgia's major marine fisheries resources. Completion Report 1982. U.S. Dept. of Commerce, NOAA, NMFS Office, 52 pp.

Stevens, S. with J. Music and K. Shaffer. 1985. Survey of Georgia's major marine fisheries resources. Annual Report 1984. U. S. Dept. of Commerce, NOAA, NMFS Office, 73 pp.

Stevens, S. 1985. Penaeid shrimp migration along the Georgia coast. U.S. Dept. of Commerce, NOAA, NMFS Office, 33 pp.

Stevens, S. with C. Cowman. 1985. A description of biological and physical parameters affecting the sanitary quality of Georgia's shellfish resources: A Sanitary Survey. Submitted to U.S. Food and Drug Administration, 150 pp.

Stevens, S. 1986. revision of Stevens, S. with Cowman. 1985. 160 p.

Stevens, S. 1987. revision of Stevens, S. 1986. 165 p.

Stevens, S. with J. Veazey. 1988. revision of Stevens, S. 1987. 150 p.

Stevens, S. with J. Veazey. 1989. revision of Stevens, S. 1988. 170 p.

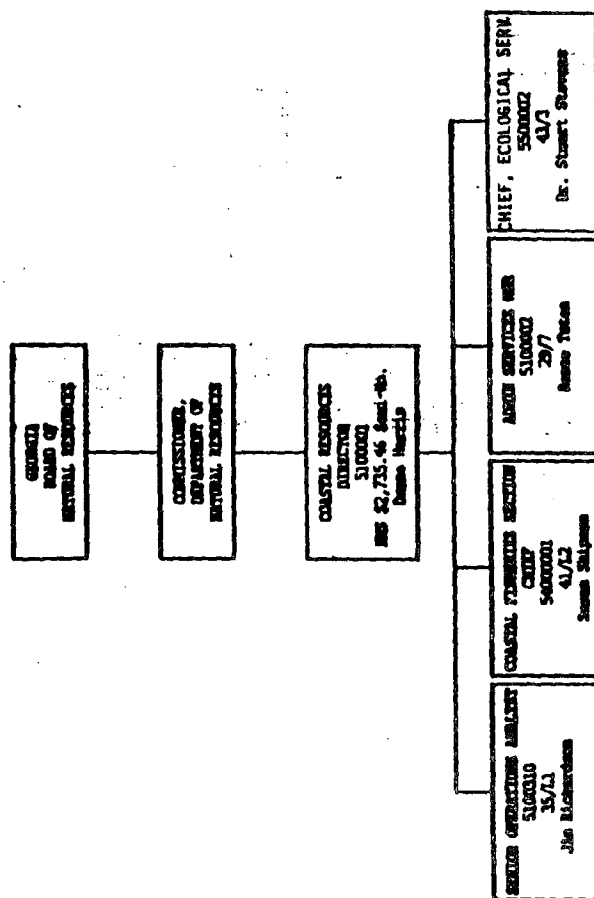
Stevens, S. with J. Veazey. 1990. A description of biological and physical parameters affecting the sanitary quality of Glynn and Camden County, Georgia shellfish resources: A Sanitary Survey. Submitted to U.S. Food and Drug Administration, 108 pp.

REFERENCES

Available on request.

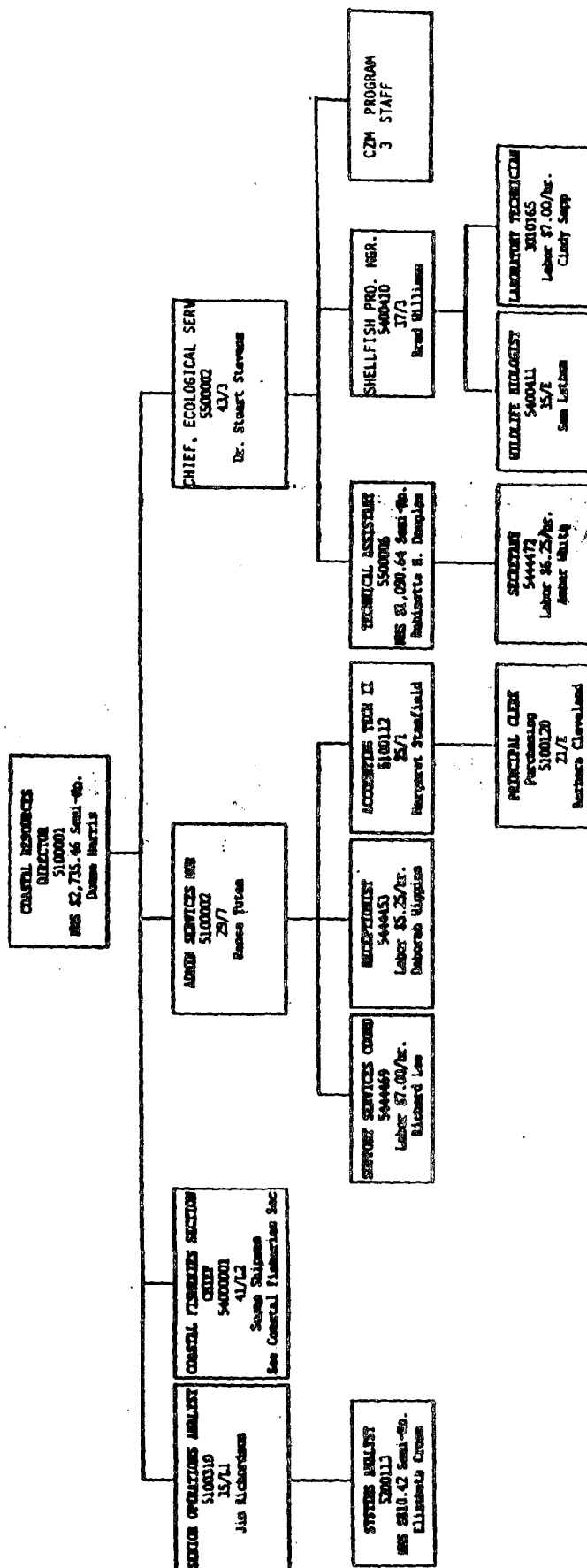
GOVERNMENT OF NORTHERN TERRITORIES
COASTAL RESOURCES DIVISION
APRIL 1981

1 - New-wait Status



GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
APRIL 1991

NS = Nonverbal Status



STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ECOLOGICAL SERVICES SECTION

CZM PROGRAM DEVELOPMENT SECT. 305
GRANT APPLICATION

FOR PERIOD 1 OCT. 1992 THROUGH 30 SEPT. 1993

SECTION 3: BUDGET

A. Budget Summary

Funds dedicated to the planning and development of Georgia's Coastal Zone Management Program are summarized in the table below. Total federal funds requested is \$135,000 with state match at 3:1 of \$33,931. These funds will allow the Department to undertake a study of existing authorities for coastal management and propose additional authorities as necessary to meet federal requirements for approval of the CZM Program.

Section 2 of this grant award application contains an organizational chart for the Department which indicates the proposed position within the chain of command for the CZM Program. The CZM Program will be staffed by 3 FTE's paid from federal funds and 0.54 FTE's paid from state match.

BUDGET SUMMARY

	<u>FEDERAL</u>	<u>STATE</u>	<u>TOTAL</u>
PERSONNEL	\$87,000	\$24,905	\$111,905
FRINGE	31,528	9,026	40,554
TRAVEL	7,400	0	7,400
EQUIPMENT	6,890	0	6,890
SUPPLIES	582	0	582
OTHER (PRINTING)	1,600	0	1,600
TOTALS	\$135,000	\$33,931	\$168,931

B. Fringe.

Fringe benefits for the 3.54 positions funded by this award are calculated as follows:

FRINGE

	3
FICA	7.65
Retirement	17.89
Health Insurance	<u>10.7</u>
TOTAL	36.24%

All employees paid from federal funds will be subject to status as non-merit state employees eligible for full benefits. All fringe benefit rates are set by state law.

C. Equipment.

The following table lists individual equipment items. Items listed will equip offices within the Coastal Regional Headquarters of the Department for use by CZM staff. Office space will be provided but items listed must be purchased. All other equipment needs of the CZM Program for this grant award year will be provided by the state. Office items listed match office furniture currently on site. Computer equipment will be dumb terminals for access to the Coastal Resources Division's NCR multi user/multi tasking UNIX based system providing a diversity of electronic capabilities. All equipment will be purchased according to state approved purchasing procedures.

EQUIPMENT

ITEM	NO.	ESTIMATED COST
Desk - CZM TA	1	\$1,200
Desk - CZM RT	1	1,100
Credenza - CZM TA	1	900
Chair - CZM TA & RT	2	600
Bookcase - CZM PL, TA, & RT	3	650
Computer drawer - CZM TA & RT	2	240
Computer terminal - CZM PL, TA, & RT	3	1,300
Lateral File - CZM TA & RT	2	900
TOTAL		\$6,890

Key to abbreviations used in table:

PL = CZM Program Leader
 TA = CZM Technical Assistant
 RT = CZM Resource Technician

D. Travel Budget.

Out-of-state travel to Washington, D.C. is required for CZM Program staff to participate in meetings with OCRM. Additional out-of-state travel is required for staff to inspect federally approved CZM programs in North Carolina, South Carolina, and Florida. Travel to South Carolina and Florida will also be necessary to coordinate establishment of the Georgia coastal boundary. All reimbursable cost for state employees will be according to statewide travel regulations which includes contract airfare. The following describes the travel budget.

TRAVEL BUDGET

<u>Destination</u>	<u>Number (cost per trip)</u>	<u>Total Cost</u>
Washington, D.C.	6 (\$900 for 3 days, 2 nights)	\$5,400
South Carolina CZM	1 (4 days, 3 nights)	600
North Carolina CZM	1 (3 days, 2 nights)	600
Florida CZM	1 (3 days, 2 nights)	800
TOTAL:		\$7,400

E. Printing and Supplies.

Funds are required to cover printing cost of public informational brochures about the state CZM Program and for printing of public notices and the summary of the program document. Supplies required will be utilized within the CZM offices at the Coastal Regional Headquarters. All expenditures for printing and supplies will be according to approved procurement procedures.

F. Grant Cost By Tasks.

CORE STAFF TIME BY TASKS
(months of staff time)

<u>Tasks</u>	<u>Federal</u>	<u>State</u>	<u>Totals</u>
1. Public Involvement	7.0	1.2	8.2
2. Boundary	5.0	0.5	5.5
3. Authority/Organization	12.0	2.0	14.0
4. Federal Consultation	3.0	0.7	3.7
5. Program Document	8.0	0.6	8.6
6. Administration	1.0	1.5	2.5
TOTALS:	36.0	6.5	42.5

COST BY TASKS
(Dollar Amounts Rounded)

<u>Task</u>	<u>Federal</u>	<u>State</u>	<u>Totals</u>
1. Public Involvement	\$ 23,048	\$ 6,264	\$ 29,312
2. Boundary	16,462	2,610	19,072
3. Authority/Organization	39,508	10,442	49,950
4. Federal Consultation	9,877	3,654	13,531
5. Program Document	26,341	3,131	29,472
6. Administration	3,292	7,830	11,122
TOTALS:	\$118,528	\$33,931	\$152,459

G. Staff Time By Tasks

Following is a detailed description of the core staff time proposed for each individual tasks.



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